



Appeal Decision

Site visit made on 14 May 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 June 2024

Appeal Ref: APP/X4725/W/23/3332051

13A Ropergate End, Pontefract, Wakefield WF8 1JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Anthony Blaza of Anthony J Blaza & Partner Ltd against Wakefield Metropolitan District Council.
 - The application Ref is 23/00501/FUL.
 - The development proposed is change of use, extension and alteration of a single storey building from hairdressers (use class e) to hot food takeaway (sui generis use) at ground floor and creation of roof terrace associated with adjoining public house (sui generis use).
-

Decision

1. The appeal is dismissed and planning permission for change of use, extension and alteration of a single storey building from hairdressers (use class e) to hot food takeaway (sui generis use) at ground floor and creation of roof terrace associated with adjoining public house (sui generis use) is refused.

Preliminary Matters

2. Since the appeal was submitted, Wakefield District Local Plan 2036 Volume 1 Development Strategy, Strategic and Local Policies (24 January 2024) (LP Vol 1) and Volume 2 Settlement Specific Policies (24 January 2024) were adopted, replacing the Local Development Framework Core Strategy and Local Development Framework Development Policies Document. The Council raised this in their statement. An updated National Planning Policy Framework was also published in December 2023. The appellant had the opportunity to respond to these matters at the final comments stage of this appeal.
3. The proposed development was amended during the application process. The appellant has confirmed that the description of development in the Council's Statement of Case is correct, and I have used this in my decision and the banner heading.
4. While it may be that a number of consultees did not respond to the consultation on the amended proposals, I have nonetheless had regard to all the representations received insofar as they are relevant to the proposal before me.

Background and Main Issues

5. Following the submission of the appeal against non-determination, the Council submitted an officer report which raised two areas of concern. Based on this,

representations from statutory consultees and my observations on site, I consider the main issues to be the effect of the proposed development on:

- the enjoyment of surrounding properties with respect to odour; and
- the operation of sewerage infrastructure.

Reasons

Odour

6. It is proposed to use the ground floor of the property as a hot food take away. Such uses normally require fume extraction equipment to disperse odours. No details of any such equipment have been submitted as part of the application.
7. I have not been provided with the comments of the Council's public protection officer and rely on the comments contained in the Council's report. At my site visit I observed windows to the adjoining properties which could be adversely affected by smells. Although not raised by the Council, the effect on users of the proposed seating area would also have to be satisfactory. It may be more challenging to address these concerns given the proposed use would be located within a single storey building. Consequently, it would not be possible for this matter to be addressed by condition as I cannot be satisfied that such a condition would adequately address odour concerns and make the development acceptable.
8. It therefore has not been demonstrated that the proposed development could be carried out without an adverse effect on the enjoyment of surrounding properties with respect to odour. It would be contrary to LP Vol 1 Policies LP56 and LP67 which, inter alia, require development to demonstrate that measures can be implemented to minimise emissions to a satisfactory level and have no detrimental impact on the amenity of neighbouring users.

Sewerage Infrastructure

9. The proposed extension would be sited over existing public manhole covers, and it is not in dispute that it would not be possible to relocate these within the site were the extension to be constructed. The development as proposed therefore has the potential to impede the effective operation of the public sewerage network.
10. The appellant has put forward that there are a number of options through which this issue could be addressed. However, these involve land outwith the application site. While the appellant has indicated they have control over the adjoining land, this has not been shown on the submitted location plans. As such, I cannot be certain that any of the alternative solutions could be delivered.
11. It therefore has not been demonstrated that the proposed development would allow for the continued, effective operation of sewerage infrastructure. It would be contrary to LP Vol 1 Policies SP23 and LP30 which, inter alia, require development to minimise the risk from pollution and ensure that infrastructure is available to service the development.

Other Matters

12. The appeal site lies within the Pontefract Market Place Conservation Area (CA) where s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. The significance of the CA as it relates to this appeal lies in its historic interest in the development of Pontefract market place and town centre that developed from the 12th century onwards and its architectural significance in the layout of the area and the fabric and detailing of the buildings. The appeal site is a mid-terrace property which is also a Building of Local Interest and as such is a non-designated heritage asset.
13. The terrace provides a terminus to the street and is a touchstone to what would have been the historic enclosed street pattern. It also relates to the neighbouring property through the detailing on the shop front. The proposal would retain the historic fabric to the front elevation and install a more sympathetic timber shopfront. The extension to the rear would not be readily visible from public areas. A glass balcony screen is proposed along with a staircase enclosure to the first floor to provide the seating area. The lightweight nature of the balcony screen would be a subservient addition to the property. The staircase enclosure would be positioned towards the rear of the first floor which would limit its visibility. Overall, the proposed development would provide an enhancement to the character and appearance of the CA and significance of the non-designated heritage asset due to the proposed shopfront, with the other aspects of the development preserving the character and appearance of the CA. While this supports the appeal, it would not outweigh the harms I have identified above.
14. The Council's Conservation Officer identified 49 Ropergate as a Listed Building in the immediate vicinity of the site. However, due to the curve in Ropergate End, the appeal site is not viewed in conjunction with No 49. To the rear there is an intervening garage and the proposed extension would not project beyond the existing built form. The proposed development therefore would not affect the setting of No 49.
15. The appeal site is adjacent to a public house and situated on a main road in close proximity to a major junction within a commercial centre. No concerns have been raised in relation to the proposed uses, and I have no reason to find otherwise given its town centre location. The proposed extension to the rear would enclose the existing yard and, other than in respect to the issues with the public manhole covers, would have a neutral effect on the surrounding area due to its limited scale and enclosed position. However these amount to a lack of harm and would not weigh in favour of the proposal.
16. Concerns regarding a lack of communication with the Council during the period for the determination of the application would not affect my assessment of the planning merits of this appeal.

Conclusion

17. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight, including the policies of the Framework, to suggest the decision should be made otherwise. Therefore, for the reasons given, and having had regard to all other matters

raised, I conclude that the appeal should be dismissed and planning permission refused.

J Downs

INSPECTOR