



Appeal Decision

Site visit made on 23 October 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2024

Appeal Ref: APP/N4720/W/24/3345839

Roseville House, Roseville Road, Sheepscar, Leeds LS8 5DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr Abel - Tesfa Gebreal - Abraha against the decision of Leeds City Council.
 - The application Ref is 24/00271/FU.
 - The development proposed is change of use of existing nursery to dessert lounge.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the above banner heading has been taken from the original application form. The decision notice refers to the first and upper floors and I have determined the appeal accordingly.
3. The change of use as described above has already taken place at the property. I have therefore determined the appeal accordingly.

Main Issues

4. The main issues are:
 - The effect of the development on the living conditions of nearby residents along Roseville Road and Kepler Grove with particular regard to noise and disturbance; and
 - The effect of the development on access for all users to the property.

Reasons

Noise and disturbance

5. The appeal site relates to the first and second floor of a commercial building located on the southbound carriageway of Roseville Road between the junctions of Roseville Street and Gledhow Place. Residential accommodation sits within close proximity to the site along Roseville Road and Kepler Grove along with a number of adjoining businesses in a densely occupied location.
6. The ground floor is currently occupied as a warehouse with the first and upper floors having changed use from a children's nursery to a dessert lounge. The opening hours proposed are 09:00-23:00 hrs Monday-Sunday (7 days a week) including bank holidays.

7. The use as a dessert lounge has resulted in an intensification of this site from its former use with increased comings and goings. The previous use as a nursery was understood to have been limited to 30 children at a time and unlikely to have been open later into the evening at a time up until 23:00 hrs 7 days a week. The overall functioning of a dessert lounge is one where the level of noise and disturbance would be difficult to control, including the comings and goings of customers, staff, and delivery drivers both on foot and by vehicle, people conversing both inside and outside, disturbances associated with car doors opening and closing, noise from engines and car music etc. The later opening hours may be in line with this type of operation. However, it would still result in comings and goings later into the evening in a location close to residential properties and at times when ambient noise levels are lower and thereby causing a disturbance.
8. There is no designated parking, and the surrounding area is heavily controlled via Traffic Regulation Orders. It is therefore likely that customers will be outside waiting for taxis late at night as well as using the front of the premises for other customer congregations given that there is no outdoor amenity space. All of the above would be detrimental to the amenity of nearby residents.
9. I appreciate the proposals relating to some additional insulation to cavity walls and floorboards although there has been no Noise Impact Assessment submitted or any supporting information relating to the operations of the business. It is therefore difficult to assess the effectiveness of these measures and there is an overall lack of information to demonstrate how noise and other pollutants would be controlled.
10. For the above reasons, I conclude that the development harms the living conditions of nearby residents along Roseville Road and Kepler Grove with particular regard to noise and disturbance and I have no compelling evidence to the contrary. The development is therefore contrary to Policy P10 of the Leeds Core Strategy (as amended by the Core Strategy Selective Review 2019) (CS) and saved Policies GP5 and BD6 of the Leeds Unitary Development Plan (Review 2006) (UDPR) which together, amongst other matters, explain that proposals should seek to avoid problems of loss of amenity. For the same reasons, the development is also contrary to the guidance contained within the National Planning Policy Framework (the Framework) relating to creating places with a high standard of amenity for existing and future users.

Access for all users

11. The use as a dessert lounge is located at first and upper floor levels via stairs. This means that access to the premises is not possible for all users such as those who cannot gain access via stairs with no other methods proposed to achieve access for all.
12. For the above reasons, I conclude that the development is contrary to Policy P10 (vi) of the CS and Policy GP5 of the UDPR which together, amongst other matters, supports development which is accessible to all users. For the same reasons, the development is also contrary to the guidance contained within the Accessible Leeds Supplementary Planning Document, 2016, Leeds City Council Transport Supplementary Planning Document, 2023 and the Framework which together amongst other matters, also seek to ensure developments are accessible to all.

Other Matters

13. I am aware of the lack of objection from a number of consultees including highways. However, a lack of objection does not mean that the development is not harmful and would not alter my findings in relation to the above main issues.

Conclusion

14. For the reasons given above, the appeal should be dismissed.

N Teasdale

INSPECTOR