



Appeal Decision

Site visit made on 20 November 2024

by A Caines BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/W4705/W/24/3351911

2 Horton Park Ave, Bradford BD7 3BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Fasial Sheikh against the decision of City of Bradford Metropolitan District Council.
 - The application Ref is 24/02098/FUL.
 - The development proposed is conversion of retail (Class E(a)) into cafe (Class E(b)) with associated extraction flue and siting of shipping container.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following clarification of a spelling mistake on the planning application form, the appeal proceeds in the name of Fasial Sheikh.
3. At the time of my site visit the shipping container was already in situ but it was not in use. As such, the proposal is part retrospective.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area;
 - the living conditions of neighbouring residents with particular regard to noise, odours, and vibrations; and
 - highway safety and convenience.

Reasons

Character and appearance

5. The appeal relates to an end terrace property located within a built up and predominantly residential area characterised by traditional stone terraces of consistent scale and materials. There is however a large public car park on the north side of Horton Park Road, and some commercial premises further to the west along Great Horton Road which exhibit a wider variety of designs and materials, including some with metal cladding.
6. The metal shipping container at the site has been adapted for its proposed use and contains large windows at one end. The other end contains black metal shutters, which according to the drawings, would remain permanently closed. Although natural stone cladding is still to be added to the rear of the container,

its height, form, design, and the materials at the front are wholly at odds with the traditional character and appearance of the buildings it is seen immediately in context with, causing it to appear incongruous. Furthermore, due to the limited gaps to the main building and side boundary, the container appears uncomfortably cramped within the plot. The effect is exacerbated by its raised position and visual prominence from Horton Park Avenue. Thus, notwithstanding other commercial influences in the wider surrounding area, including those highlighted by the appellant, the container development has an adverse visual effect on the site and its immediate surroundings.

7. In terms of the extraction flue, this would predominantly be internal with only a limited projection above the roof of the main building. Its visibility from the street would be minimal. Consequently, this element of the scheme would not be harmful in visual terms.
8. Nevertheless, for the foregoing reasons, I find that the container development does cause harm to the character and appearance of the area. This is contrary to Policies DS1 and DS3 of the Bradford Core Strategy 2017 (the CS), which amongst other things, require that development proposals are well designed and appropriate to their context in terms of layout, scale, details and materials.

Living conditions

9. The development includes a kitchen and a seating area for a maximum of 15 people. There is also an open paved area at the front of the site which could potentially be used for outdoor seating, or at the very least is an area where customers coming to or from the premises could linger out in the open. Refuse storage and servicing would take place at the rear from Crossley Street, which is firmly residential in character.
10. The application form lists the hours of operation as 11:00 to 00:00 each day. Therefore, there could be activities and general comings and goings from customers late into the evening when nearby residents would reasonably expect a degree of peace and quiet. While there are a number of food and drink uses on Great Horton Road, they are more distant from the site and the road has a very different mixed commercial and residential character, so the situations are not directly comparable.
11. The appellant indicates that they would be willing to change the opening hours, but no specific alternative has been given. In any event, an amendment to the opening hours would represent a significant change to the scheme, and has not been subject to public consultation. If the appellant thinks that amending the opening hours would overcome the Council's concerns in this regard then a fresh application should be made in the first instance.
12. The development also has the potential to give rise to additional noise, odour, and vibration effects from the mechanical extraction system that would be necessary. It is particularly concerning that the drawings indicate that this equipment would be positioned against the dividing wall of the adjoining residential property, before exiting through the roof close to a gable window. In the absence of any technical information, such as specification of the system, as well as a noise survey and assessment, and details of possible mitigation measures, I cannot conclude that its operation would not cause harm to the living conditions of the occupiers of adjoining and surrounding residential properties in respect of any noise, odour, and vibrations generated. The

imposition of planning conditions would not be sufficient to provide certainty that harm would not be caused to nearby residents in these regards.

13. For these reasons, based on the evidence provided, I find that the development would not provide acceptable living conditions for all nearby residents with particular regard to noise, odour, and vibrations from associated activities and mechanical extraction equipment. This is contrary to Policies DS5 and EN8 of the CS, which amongst other things, require that proposals do not harm the amenity of existing or prospective residents, and that proposals which are likely to cause exposure to noise and odour pollution will only be permitted if measures can be implemented to minimise pollution and risk to a level that provides a high standard of protection for amenity.

Highway safety

14. The development represents an intensification of the use of the site, which according to the appellant's figures, would generate a parking requirement of up to 5 spaces. However, no off-street parking spaces would be provided as part of the development. In fact, it appears to me that the siting of the container has resulted in the loss of parking spaces from the site.
15. There is a large public car park on the opposite side of Horton Park Avenue, which some customers and employees may opt to use. However, this could not be guaranteed. I cannot rule out that there would, on some occasions, be associated parking within Crossley Street due to its greater convenience and the lack of parking restrictions. This would be in addition to delivery and servicing requirements. However, parking on Horton Park Avenue itself is unlikely given the parking restrictions in place.
16. During my mid-day site visit I observed that Crossley Street was narrow and heavily parked, with some vehicles even parked in the turning head causing an obstruction. This was despite ample parking availability in the public car park. It is likely that competition for spaces in the street is even higher in the evenings and weekends, leaving very little, if any, capacity to accommodate further vehicles. Indeed, some local residents have complained about parking issues, giving further indication that the area may experience parking stress. There is no substantive evidence before me to demonstrate otherwise.
17. Therefore, based on the evidence provided, I find that the development has the potential to exacerbate existing parking issues in Crossley Street, and possibly cause knock-on effects in other nearby residential streets. This would likely lead to some frustration, and drivers parking and manoeuvring in ways they would otherwise not, which in turn, is likely to impede the free flow of traffic to the detriment of local highway safety and convenience. Thus, there is conflict with the parking and traffic management requirements of Policies DS4 and TR2 of the CS.

Other Matters

18. The appellant states that the site was in a poor condition and I have noted the comments in favour of the development. There would also likely be some economic benefits arising from the development, including the creation of 1 new full-time job. While these are positive aspects of the scheme, they do not outweigh the significant harm I have identified and the resultant conflict with the development plan taken as a whole.

19. It has been suggested that the existing shop could be converted to a cafe without having to obtain planning permission. However, this seems most unlikely due to its small size. In any event, the effects of such a development would not be commensurate with those of the appeal scheme. As such, I consider this to be no more than a theoretical possibility to which very little weight can be attached.

Conclusion

20. The proposal conflicts with the development plan as a whole and there are no material considerations which indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

A Caines

INSPECTOR