



Appeal Decision

Site visit made on 30 October 2017

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10th November 2017

Appeal Ref: APP/C3240/W/17/3181564

Unit 2, Sutton Road, Admaston, Telford, Shropshire TF5 0AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Joginder Singh against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2016/1180, dated 19 December 2016, was refused by notice dated 19 May 2017.
 - The development proposed is the change of use from Post Office (Class A1) to Fish and Chip Shop (Class A5) with installation of 1 no. flue.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from Post Office (Class A1) to Fish and Chip Shop (Class A5) with installation of 1 no. flue at Unit 2, Sutton Road, Admaston, Telford, Shropshire TF5 0AY in accordance with the terms of the application, Ref TWC/2016/1180, dated 19 December 2016, subject to the conditions set out in Annex A.

Procedural Matter

2. Although the description of development indicates that the proposal would be a Fish and Chip Shop in determining the appeal I have taken into account the fact that it would be possible to change to any other use in Class A5 without needing planning permission.

Main Issue

3. The main issue in the appeal is the effect of the proposed development on the living conditions of nearby residents with particular regard to noise and disturbance.

Reasons

4. The appeal relates to a vacant retail unit located at the end of a small two storey parade of shops, on the corner of Sutton Road and Station Road. There are four other units within the parade – a newsagent/post office, an off-licence/convenience store, a nail and beauty salon and a hairdressers. The parade is located in a residential area and there are flats above the retail units. To the rear of the shops, accessed from Sutton Road is a row of 10 garages – one for each of the commercial and residential units, and an area where deliveries and servicing for the units can take place. To the front are approximately 10 parking spaces, and a parking bay for 3 or 4 cars is also found adjacent to the parade on Station Road.

5. The proposed takeaway would be open at lunch time and early evening until 21.30, 6 days a week, with no opening on Sundays and Bank Holidays. I observed that ambient noise levels in the area were low, with traffic being the main source of noise. Although Station Road carries traffic through the village, given the residential nature of the area, I expect it to be relatively quiet by the evening.
6. Whilst I have not been provided with any details it is likely that the former use of the unit as the post office means it would have operated mainly daytime hours. However, I understand that none of the units have any controls on opening hours, and the convenience store opens until 21:00 hours every day and the nail studio is open until 20:00 hours on 4 days a week. As such the parade of shops already creates some noise and activity in the area during the evening.
7. The main activity associated with hot food take aways tends to occur during the evening. However, unlike many other establishments of this type, the proposed closing time of 21:30, is relatively early, and is only slightly later than the existing convenience store in the parade. As a result the proposed use would not generate noise late into the evening/night, and the levels of noise and disturbance created by the coming and going of customers during the evening may not be significantly greater than that generated by the existing businesses. Furthermore, the proposed opening hours would mean the use would be unlikely to attract trade from the public house further along Station Road which closes later in the evening. In the light of this, and the current lack of any control on opening hours on the units in the parade, I consider the proposed use would be unlikely to result in unacceptable levels of noise and disturbance for nearby residents.
8. Given the limited number of units the parade is relatively well served with parking spaces. Nevertheless, site visits by the Council in the early evening found all the spaces being used, many seemingly for other purposes than visiting the shops. This is supported by comments from many local residents who also highlight issues with indiscriminate parking along the pavements in the vicinity.
9. Even though the use may primarily attract customers from the local area, there is a tendency for people to drive to collect a takeaway meal so that the food remains hot. As such the proposal is likely to create further demand for parking, and given the busiest time is likely to be early evening, this would be at a time when demand for parking in the area is already high.
10. However, to this end a Section 106 agreement has been provided that would secure the funding to introduce waiting restrictions in the parking spaces and double yellow lines on the roads in the immediate vicinity. With these measures in place to control the location and duration of parking in the area, I am satisfied that the existing parking provision would be adequate to deal with the demand for parking created by the proposed used, together with the other shops.
11. As a consequence of this there would be no prejudice to highway safety and there would not be undue inconvenience to local residents arising from parking associated with the proposal.

12. Local residents have also expressed concerns regarding odours from the proposed use. An extraction flue is proposed as part of the appeal scheme and this would clear cooking smells in accordance with current specifications for both odour and for noise of such equipment. The Council's Environmental Health Officer has not raised any objections to the proposal subject to conditions, and from the evidence before me, I find no reason to disagree. Nor do I have any substantive evidence to persuade me that litter would be a significant problem, especially as the proposal would provide a further two bins in the locality.
13. It has been suggested that, together with the convenience store, the proposal has the potential for anti-social behaviour from people congregating outside. Nevertheless CCTV cameras are proposed as part of the scheme as a deterrent to such behaviour and Environmental Health have indicated that should anti-social behaviour occur, matters can be addressed under other legislation. Whilst I note the concerns regarding light pollution, I am not persuaded that in this regard a takeaway would be any different to a shop, especially given the current lack of any restriction on the opening hours of the units.
14. Concerns have also been expressed relating to the lack of need for such a use as it is stated that there are already plenty in the wider area. However, it is not the role of the planning system to prevent competition. In addition, whilst I note the objections relating to health issues, the Council have confirmed that they have no policies that enable the restriction of the location of such uses in this respect.
15. Taken together the concerns of local residents demonstrate a considerable level of local feeling. Nonetheless, whilst I note these concerns, they are not sufficient to alter the considerations that lead me to conclude that the proposal would not unacceptably harm the living conditions of nearby residents with particular regard to noise and disturbance. Accordingly, I find no conflict with Policy CS2 of the *Core Strategy Development Plan Document (adopted December 2007)* which, amongst other things, seeks to minimise the impact of new employment development on existing uses, the environment and local amenity. Nor would it be contrary to policy BE1 of the emerging *Telford and Wrekin Local Plan 2011 -2031* that seeks to ensure that development does not have a significant adverse impact on nearby properties.

Other matters

16. It has been highlighted that that a proposal for a takeaway in a different unit was dismissed at appeal in 1992. However, there have been changes in both national and local planning policies in the intervening period. Moreover, not only does the current scheme propose an earlier closing time, but there have been improvements in the efficiency of extraction equipment, and additional powers have been introduced to control anti-social behaviour. As such, the context for determining this appeal is significantly different.
17. It has been argued that the proposal would set a precedent for other such uses in the parade and that the hours of operation may change. However, the acceptability of either the change of use of a different unit or the opening hours would have to be considered by the Council at the time, and do not constitute reasons for refusing this current application.

18. The proposed flue would be located on the side elevation, adjacent to the rear store, and it is proposed to clad it in a brick slip. As a result I am satisfied it would not be an overly dominant feature. In addition, any new signage required would be subject to advertisement consent. Other than this the proposed change of use would not result in other external alterations to the unit. Therefore I consider it would not have a detrimental impact on the character and appearance of the area.
19. Concern has been raised over the marketing of the unit since it became vacant. However, the Council indicated that they are satisfied that adequate marketing of the unit has taken place, and from the evidence before me I see no reason to disagree with this conclusion. As such the proposal would therefore bring this empty unit back into economic use, and whilst only a small number of jobs would be created, given the size of the unit, most potential uses would not create a significant number of jobs.
20. I note the suggestion that certain parts of the application form were completed inaccurately but I am satisfied that these matters have not unduly affected the determination of the application, or the appeal, in any way.

Conclusion and Conditions

21. For the reasons set out above I conclude the appeal should be allowed.
22. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans as this provides certainty. In order to protect the living conditions of residents it is necessary to control the opening hours and the provision of the fume extraction system. In the interests of the character and appearance of the area, a condition is required to control the external appearance of the flue.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Scale 1:1250; Block Plan Scale 1:500; Existing Elevations and Existing and Proposed Floor Plans Scale 1:100; and Proposed Elevations Scale 1:100.
- 3) The use hereby permitted shall only take place between the following hours: 11:30 to 21:30 Mondays – Saturdays with no working or activities on Sundays or Bank Holidays.
- 4) Notwithstanding the cowl, the extraction duct shall be built in accordance with the approved plans using brick slips to match the bricks used in the existing building in terms of size, colour and texture.
- 5) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with the approved plans and submitted details. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval, and retained for so long as the use continues.