The Planning Inspectorate

Appeal Decision

Site visit made on 8 December 2014

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 19th December 2014

Appeal Ref: APP/B4215/A/14/2227163
167 Burton Road, Manchester M20 2LN

- 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 Justin Crawford against the decision of Manchester City Council.
- The application Ref 105602/FO/2014/S2, dated 23 April 2014, was refused by notice dated 17 July 2014.
- The development proposed is the change of use of the first and second floors from apartment to restaurant/bar (first floor) and ancillary offices (second floor) including installation of external fire escape stair to the rear.

Decision

1. The appeal is allowed and planning permission is granted for the change of use of the first and second floors from apartment to restaurant/bar (first floor) and ancillary offices including the installation of external fire escape stair to the rear at 167 Burton Road, Manchester M20 2LN in accordance with the terms of the application, Ref 105602/FO/2014/S2, dated 23 April 2014, subject to the conditions set out in Annex A.

Main Issue

2. 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

3. The appeal property is located within a row of commercial properties within Burton Road Local Centre. The centre contains a wide variety of uses including a significant number of uses that are open in the evening and at the time of my site visit (mid-afternoon on a weekday) was busy and vibrant. Burton Road is a local distributor road that carries a large volume of traffic. It is also a busy bus route with buses running until around midnight most days. Given these locational characteristics the background noise levels in the vicinity of the appeal site are relatively high and are likely to remain so until late in the evening.

4. The upper floors of the appeal property are currently used for ancillary uses connected to the ground floor restaurant, although the evidence indicates that previously they have been used for residential purposes. However, the other properties in the terrace have residential uses on the upper floors as do some

of the other commercial premises in the centre. Although I also observed that at least one restaurant in the centre already utilises the upper floors as part of the restaurant.

5. The current restaurant has been trading on the site for 12 months, but I understand the unit has been used as a restaurant since 2001. At present, the appellant has stated that the restaurant has 26 covers on the ground floor. It also has a seating area outside at the front of the premises with a retractable canopy. The proposal would add approximately 50 sqm of restaurant floorspace which it is indicated would accommodate an additional 20-25 covers.

6. The increase in the size of the restaurant will result in additional numbers of customers arriving and departing and also in the number of smokers using the area to the front of the premises. However, as the overall size of the restaurant would remain modest, the additional noise created is likely to be limited and given the background noise in the area, it is unlikely to significantly increase the noise and disturbance experienced by nearby residents.

7. During the time the premises has been used as a restaurant I have not been made aware that the use has given rise to any complaints from local residents regarding noise and disturbance. Local residents have drawn my attention to the fact that the significant evening economy in the centre does create noise, disturbance and some anti-social behaviour generally in the area, but there is no evidence to indicate the users of this facility are responsible for this. I note that Environmental Health has not given any indication that the centre has issues in this regard nor have they objected to the application.

8. In the light of this, and the fact that there are a large number of other uses open until a similar time in the evening in the area, I envisage that any additional noise and disturbance resulting from the increase in the size of the restaurant, would be minimal in comparison with, and indistinguishable from, that associated with other uses in the centre and the traffic using Burton Road.

9. In terms of noise generated inside the premises, the plans indicate that sound insulation would be provided as part of the proposed development and the adequacy and implementation of this can be secured by way of a condition. As a result I am satisfied that this would be adequate to prevent internal noise migration to the occupiers of the adjoining flats.

10. I therefore conclude that the proposed development would be unlikely to cause significant harm to the living conditions of nearby residents with regard to noise and disturbance. Accordingly, there would be no conflict with Policy DC26.1 of the *Unitary Development Plan for the City of Manchester (adopted July 1995)* and Policies SP1 and DM1 of the *Manchester Core Strategy Development Plan Document (adopted July 2012)* which seek to ensure that adequate living conditions are provided for existing and new residents.

Other Matters

11. The appeal site is located within Albert Park Conservation Area and as a result I have had special regard to the statutory duty to pay attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I note that the Council considered that the scheme would have no impact on the Conservation Area. As the only external change to the building is the addition of a fire escape at the rear which would have little

visibility from the public realm, I am satisfied that the proposal would preserve the character and appearance of the Conservation Area.

12. Concern has been raised over the lack of parking in the locality. As the surrounding area is densely developed and many of the houses have little or no off-street parking demand for on-street parking is high. Nevertheless, given the good public transport links in the vicinity and the fact that some of the clientele are likely to come from the immediate vicinity, I envisage that the proposal would not generate significantly more demand for on-street parking.

13. It has been stated that the area already has enough bars and restaurants and that it does not need any more. However, the proposal is not for an additional restaurant but an increase in the size of an existing one and so would not result in an increase in the number of such uses in the locality .

Conclusion and Conditions

14. For the reasons set out above I conclude that the appeal should be allowed.

15. In addition to the standard implementation condition, it is necessary for the avoidance of doubt, to define the plans with which the scheme should accord. In order to protect the living conditions of nearby residents it is necessary to restrict the hours of operation of the use, and to approve details of the sound insulation between the premises and the adjacent properties and to ensure their subsequent implementation and retention. A condition requiring the submission and implementation of a refuse management strategy is necessary to ensure adequate arrangements are made for the storage of refuse which will increase as a result of the proposal.

16. As no alterations to the kitchens or the extraction flue are proposed and a restaurant has been operating from the premises without any complaint regarding odours for a considerable time, I do not consider a condition requiring details of the extraction system to be submitted is necessary or reasonable.

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 Dwg No 2009/ Planning/LocPlan; Existing Site Plan Dwg No 2009/Planning/EX/SPlan; Existing Floor Plans Dwg No 2009/Planning/Ex/Plans; Existing Front and Rear Elevations Dwg No 2009/Planning/Ex/FREles; Existing North East Elevation Dwg No 2009/Planning/Ex/NEEle; Existing South West Elevation Dwg No 2009/Planning/Ex/SWEle; Proposed site Plan Dwg No 2009/ Planning/Pr/SPlan; Proposed Floor Plans Basement, Ground and First Floor Dwg No 2009/Planning/Pr/PlansBG1; Proposed Floor Plans Second Floor and Roof Dwg No 2009/Planning/Pr/2R; Proposed Front and Rear Elevations Dwg No 2009/Planning/Pr/FREles; Proposed North East Elevation Dwg No 2009/Planning/Pr/NEEle; Proposed South West Elevation Dwg No 2009/Planning/Pr/SWEle; and Proposed Ground and first Floor Plans Acoustics Dwg No 2009/Planning/Acoustics Plan.

3) The use hereby permitted shall not be open to customers outside the following times: 12:00 to 23:30 Monday to Friday, 12:00 to 00:30 (the following day) on Saturday and 12:00 to 23:00 on Sunday.

4) The use hereby permitted shall not commence until noise insulation between the premises and Nos. 165 and 169 Burton Road has been installed in accordance with a noise study of the premises and details previously submitted to, and approved in writing by the local planning authority; and such insulation shall be retained at all times thereafter.

5) No development shall take place until a refuse management strategy has been submitted to, and approved in writing by, the local planning authority. The refuse management strategy shall be implemented as part of the development and shall remain in use whilst the use is in operation. All refuse and material for recycling shall be stored in the designated area except when it needs to be placed on street on the day of collection.