The Planning Inspectorate

Appeal Decision

Site visit made on 22 August 2012

by Graham M Garnham BA BPhil MRTPI

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

Decision date: 2 October 2012

Appeal Ref: APP/B4215/A/12/2175411
384 Moston Lane, Manchester, M40 9LX

- 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 Q Q Tran against the decision of Manchester City Council.
- The application Ref 098608/FO/2012/N1, dated 20 February 2012, was refused by notice dated 20 April 2012.
- The development proposed is change of use, convert vacant shop to hot food takeaway shop (A5) together with a small extension to the rear and the installation of a new shop front and a ventilation flue to the rear.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Core Strategy Development Plan Document for Manchester City was adopted on 11 July 2012. This was after the Council decided to refuse planning permission for the appeal proposal. The adoption has brought fully into force policy DM1 in the Strategy and resulted in policy H2.2 being superseded. The latter was in the Unitary Development Plan for the City of Manchester (1995) [the UDP] and was cited on the Council's decision notice. The appellant is aware of these changes. I consider that no interests will be prejudiced by considering the proposal against the development plan policies that are currently in force.

Main Issues

3. I consider that these are the effects of the proposal on firstly, the living conditions of the occupiers of nearby residential properties; and secondly, the character and appearance of the area.

Reasons

4. The Council's objections to the proposal have focused on the change of use itself and the ensuing flues at the rear. I agree that the new shop front and the small rear extension would be acceptable in themselves, in terms of effects on living conditions and character and appearance. I therefore confine the rest of my consideration to those aspects of the proposal that are contentious.

First main issue – effect on living conditions

5. Moston Lane is a busy urban road through a densely built up residential area. I saw a considerable variety of commercial and other non-residential uses along both sides further west from the appeal site. With occasional exceptions, such uses form an almost continuous frontage to the south side of the road as far east as the appeal site. This forms the end of a short terrace containing ground floor uses typical of a local shopping centre. I consider that the site falls just within the general type of area where a hot food takeaway use may be acceptable with respect to saved policy DC10 in the UDP. This would however be subject to a consideration of the effect on the amenity of neighbouring residents.

6. The effect on local residents that is of concern to the Council is that of disturbance connected with the comings and goings of customers, especially late into the evening. I observed that at around midday, Moston Lane carried significant levels of traffic of both light and heavy vehicles, including buses. Despite the uses along the road and its location within the wider road network, connecting between two important 'A' roads, I consider it likely that there will be noticeably lower levels of passing traffic in the evening hours.

7. It may be expected that, at a main road location, some customers will arrive by car. There is a parking lay-by outside the terrace that includes the appeal site. Further parking on this side of the road is outside the dwellings further east, no.s 386-396. Drivers may enter Scarborough Street and park either in the long designated loading bay outside the appeal site or along the side of no.386 Moston Lane. I consider that any vehicle turning movements, and noise arising from car doors shutting, engines starting or generally from customers would be concentrated near the entrance to the premises, which is on the corner itself. The noise and disturbance caused would be different in kind, proximity and intensity from the relatively muted sounds of passing vehicles.

8. I consider that the property most severely affected is likely to be no.386. The main aspects from this house are directly to the front or to the rear. Disturbance could be experienced from both directions, affecting living conditions within main habitable rooms. Two openings on the offshoot face the appeal site – on the ground floor, into a small back yard that is enclosed by a high wall; and a small window at first floor. In this relationship, the occupiers would experience the added distraction of looking directly towards the flues on the other side of the road, from the downstairs room and parts of the small yard that, according to the occupier, provides a secluded amenity area.

9. The other house nearest the site would appear to be to the rear, at no.2 Scarborough Street. This is separated from the appeal site only by a narrow, gated back alley. However, it presents a blank gable wall towards the proposed hot food takeaway and has no openings facing directly towards it. I consider that the occupiers of this property would experience some disturbance from the proposal, though probably to a lesser degree than those of no.386.

10. Scarborough Street is a cul-de-sac, so it is likely that some local customers will approach the shop on foot from this direction. I consider that this amount of activity would be unlikely to add significantly to the impacts arising from customers using Moston Lane.

11. I am aware that the appellant has offered to close at 2200, one hour earlier than indicated at the planning application stage. It would also be possible to use planning conditions to restrict delivery times and to ensure proper sound insulation and odour removal systems were in place. However, I consider that none of these measures would materially overcome the likely disturbance from customers to the occupiers of the nearest dwellings, during the part of the day when traffic levels and ambient noise would be expected to be lower.

12. Petitions have been presented both for and against the proposal. Some signatures on both petitions are associated with local addresses. A properly run and monitored hot food takeaway use with modern equipment should not generate some of the negative impacts that some residents fear, e.g. from odours or cleanliness. However, I consider that these matters in favour of the proposal would not overcome the significant localised harm, as described in paragraph 8 & 9 above.

13. I conclude that the proposal would have a materially unacceptable effect on the living conditions of the occupiers of nearby residential properties. It would be in conflict in this respect with UDP policy DC10 and with policy DM1 in the Core Strategy.

Second main issue – effect on character and appearance

14. This issue concerns the flues that would be attached to the rear of the building. They would extend 1 metre beyond the height of the offshoot to which they would be attached, but would not be appreciably higher than the main roof. The Council says that they would be clearly visible and would have an adverse effect on the appearance of the building from within a residential street.

15. I agree that the flues would be clearly visible from certain directions. However the full height of the flues would be seen from less than halfway down the far side of Scarborough Street and from virtually none of the near side until outside no.2. There is a similar situation of prominent flues at the rear of hot food takeaway uses at no.s 354 & 398 Moston Lane. The local layout is of short terraces facing the main road between successive junctions with side roads. This means that high level equipment at the rear of end-of-terrace properties is likely to be clearly visible from parts of the residential side streets. The flues at the appeal site are necessary for the use to take place. They would be fitted further from the highway boundary than has occurred at the other hot food takeaway premises noted above. While clearly visible in the immediate environs, I consider that they would not unduly detract from the character and appearance of the residential area in general.

16. I conclude that the proposal would not harm the character and appearance of the area to the extent that planning permission should be withheld for this reason. There would be no significant conflict with policy DM1 cited above. The modern and functional appearance of the flues would not be contrary to the requirements of the National Planning Policy Framework with regard to refusing planning permission for development of poor design.

Overall conclusion

17. I have found harm with respect to localised living conditions but not in terms of character and appearance. The harm to living conditions is inherent in the use,

and could not be significantly overcome by imposing planning conditions. I acknowledge that the harm would be particular to just one or two dwellings, and that the proposal would bring vacant premises into use. Nonetheless, I conclude overall and on balance that the harm I have identified would be of sufficient severity to outweigh other matters in favour of the proposal.

18. So overall I conclude that planning permission should be withheld and I dismiss the appeal.

G Garnham

INSPECTOR