The Planning Inspectorate

Appeal Decision

Site visit made on 6 February 2014

by Alison Lea MA (Cantab) Solicitor

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

Decision date: 13 February 2014

Appeal Ref: APP/B4215/A/13/2208910
The Crown, 7 Valance Close, Manchester M12 5LB

- 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 Kumanathas Periyathamby against the decision of Manchester City Council.
- The application Ref 102671/FO/2013/N2, dated 6 June 2013, was refused by notice dated 16 September 2013.
- The development proposed is the change of use of the ground floor unit to form a Class A5 Hot Food Takeaway and the installation of a new extraction flue to the side elevation.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are

   (a) whether the appeal site is an appropriate location for a hot food takeaway, taking account of the effect of the proposal on the living conditions of the occupiers of neighbouring premises; and

   (b) the effect of the proposal on the character and appearance of the appeal property and the street scene.

Reasons

3. The appeal property is a former public house which I am informed has been vacant since December 2009. It is a detached building, occupying a prominent corner plot and located within a primarily residential area. It has a parking area to the south and rear and adjacent to the site there is an access road to staff parking at a clinic. A social services building to the southwest of the site has recently been demolished and that site is currently vacant. Permission was granted in February 2013 to convert the vacant public house to 3 residential self-contained apartments and a ground floor retail unit and the building is now partially renovated. The appeal proposal would introduce a hot food takeaway to the ground floor and an extraction flue to the side elevation of the building.

4. The Council adopted the Core Strategy Development Plan Document 2012-2027 (Core Strategy) in 2012. However a number of policies in the City of Manchester Unitary Development Plan (UDP) have been saved until replaced by

further development plan documents and UDP Saved Policy DC10 is of particular relevance. DC10.1 states that in determining applications for hot food takeaways the Council will have regard to a number of factors including the general location of the proposed development, the effect on the amenity of neighbouring residents, the availability of safe and convenient arrangements for car parking and servicing, ease of access for all and the storage and collection of refuse and litter. Policy DC10.2 lists a number of locations where such uses will normally be acceptable, such as in industrial and commercial areas or in shopping centres or shopping parades of more than 8 shops or offices. Policy DC10.3 states that such uses will not normally be permitted outside those general locations or where there is a house or flat on the ground floor next to the proposed business.

5. The appeal site is outside the general locations listed in Policy DC10.2 and therefore in accordance with DC10.3 should not normally be permitted. Furthermore, although the building is detached and located on a spacious plot, there are numerous residential properties in close proximity to the site and there will be 3 apartments above the proposed premises. The existing non residential uses nearby are unlikely to generate significant noise and background noise levels in this primarily residential area are likely to be low, particularly during an evening. The hot food takeaway is likely to be open and attracting customers during the evening, and I note that although the application form states that the opening hours of the hot food takeaway are unknown, the appeal statement refers to operating between 1100 hours and 2200 hours, seven days a week. Hot food takeaways frequently give rise to noise and disturbance due to the general comings and goings of customers, both on foot and by car, and although I note the existence of off street parking and the appellant's intention to actively discourage customers from congregating in the vicinity of the premises, I am not satisfied that it would be possible to ensure that noise and disturbance would not occur.

6. The appellant refers to the fact that the building was previously a public house and that residents would therefore have been used to some noise and disturbance. However I note that the premises have been vacant for over 4 years. I also acknowledge that the ground floor of the premises has consent for a retail use, and reference has been made to the possibility that the premises could be used as a convenience store. However, on the information available to me I am unable to assess whether this is a realistic prospect or the likely impacts of such a use, and the possibility does not alter my concerns with regard to the particular use proposed, which I conclude is likely to cause significant noise and disturbance in a residential area where background noise levels, particularly in an evening, are likely to be low.

7. The appellant states that there is a need for the proposal as the nearest takeaway is half a mile away and that grouping takeaways in established shopping parades doesn't always best serve the local community. I also note the petition which has been submitted in support of the proposal, the fact that some nearby residents have signed the petition and the lack of objection from residents. However none of these matters alter my conclusion that the proposal would be likely to lead to unacceptable noise and disturbance in a residential area and that there is no basis on which an exception to policy DC10.3 should be made in this case. Furthermore, although I accept that odours and fumes and litter could be controlled and that given the amount of hardstanding available at the property, parking and servicing are unlikely to

present a particular problem at these premises, for the reasons given I conclude that the appeal would be contrary to UDP Policy DC10.1.

8. I also do not accept the appellant's view that the proposal would accord with Core Strategy Polices SP1 and DM1 as I do not agree that it would make a positive contribution to the neighbourhood or increase security due to it being open in the evening. To the contrary there is nothing in these policies which would promote the provision of hot food takeaways within primarily residential areas and it is clear that all development should have regard to the character of the area and the effects on amenity, including noise. The proposal would also be contrary to Core Strategy Policy C10 which emphasises the role of district and local centres in the evening economy.

9. The proposal also includes the installation of a large flue on the side elevation of the property. The appellant has recognised that the flue may look obtrusive and has offered to construct a screen around the steel structure or to paint the metal to match the existing elevation. However, given its size and position I am not convinced that such measures would prevent it from appearing out of keeping with the property and being visually intrusive. Although the appellant has also suggested that it could be relocated, no revised proposal is before me. I conclude that the proposed flue would have a significant adverse impact on the character and appearance of the property and the street scene and that this would be contrary to Core Strategy Policy DM1 and to UDP Policy DC10.

10. Accordingly I dismiss this appeal.

Alison Lea

INSPECTOR