The Planning Inspectorate

Appeal Decision

Site visit made on 21st July 2014

by Clive Whitehouse BA MCD MRTPI

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

Decision date: 29 July 2014

Appeal Ref: APP/B4215/A/14/2218372
The Point, The Boulevard, Withington, Manchester M20 2EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Elm Road LLP against the decision of Manchester City Council.
- The application Ref 104414/FU/2013/S1, dated 6th December 2013, was approved on 18th February 2014 and planning permission was granted subject to conditions.
- The development permitted is: use of part of the ground floor as a gymnasium (237sq,m) (Class D2).
- The condition in dispute is No.4 which states that: The premises shall not be open outside the following hours:- 07:00 to 22:00 hours Monday to Saturday, and 08:00 to 18:00 hours on Sundays and Bank holidays.
- The reason given for the condition is: "In the interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan and policies SP1 and DM1 of the Core Strategy".

Decision

1. The appeal is dismissed.

Main Issue

2. The appeal has been lodged because a prospective tenant wishes to operate a gym on the site on a 24-hour basis, instead of during the hours specified in the disputed condition. The main issue is therefore the effect of the proposed extended overnight opening hours on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons

3. The unit occupies part of the ground floor of a recently constructed building. One other ground floor unit has planning permission for retail use, and there are three upper floors of flats. At the time of my visit, none of the commercial units or flats were occupied. Most of the nearby occupied properties are modern houses and flats. There is a new, partly occupied office development about 100m away, and planning permission was granted some years ago for a hospital development on vacant land beyond that. There is also a vacant site with planning permission for offices on the opposite side of The Boulevard.

4. The prospective tenant (Anytime Fitness) has 32 gyms across the country, all of which operate on a 24-hour basis. Information from some of the company's other gyms shows that usage after midnight typically falls to two or three

members per hour, before numbers pick up at around 05:00 hours. The prospective tenant does not intend to include a lounge or bar within the gym, and no music would be played during the un-staffed overnight hours.

5. It would appear that a different prospective gym operator was involved at the planning application stage and that the unit has since been re-marketed. It is therefore not certain that the particular "Anytime Fitness" regime described in the appeal documents would be followed.

6. Acoustic reports were prepared at the planning application stage and supplemented for the purpose of the appeal. Those recommend measures aimed at preventing unacceptable noise from the use of equipment and plant at the gym from disturbing people living in the flats above. Measures include non-opening windows and a suspended ceiling with acoustic insulation. Other works might also be necessary depending on the location and specification of proposed air conditioning units. Other conditions attached to the permission require the submission of detailed noise mitigation measures, and I accept that it should be technically possible under the terms of those conditions to control the transmission of unacceptable noise from within the gym and its associated plant to the flats on the floors above.

7. The aspect which is perhaps harder to control would be the noise and disturbance caused by gym members arriving and leaving and using the adjoining car park during the overnight period. The appellant refers to the busy late night bars and restaurants along Burton Road, but those are about 500m away and I am satisfied that they do not contribute to the night-time noise climate outside the appeal site. Reference is also made to the constant background noise of traffic on Princess Road, about 150m away.

8. Having walked around the area, and considered the representations of local residents it is clear that the immediate area is not subject to significant traffic or pedestrian flows during the overnight period. There is no evidence that planned commercial developments to the south would change the overnight noise climate significantly in the foreseeable future.

9. The appellant argues that club members would make little use of the car park during the overnight period, but the Council points out that 24-hour public transport is not available in the area. I think it probable that the car park would be in regular use overnight. Even thought I would not expect club members to be rowdy, there would be the unavoidable noise of cars coming and going, car doors slamming and people talking. Against the background of a relatively quiet and predominantly residential area, that noise and disturbance during the night and increasing from about 05:00 hours onwards would be likely to cause disturbance for people living nearby. I am therefore not convinced that the appeal site is an appropriate location for a 24-hour gym.

10. It is considered that the proposal conflicts with the noise and amenity objectives contained in saved UDP policy DC26 and in core strategy policy DM1. It is concluded on the main issue that noise and disturbance likely to be caused during the proposed extended overnight opening hours would unacceptably affect the living conditions of nearby residents.

C Whitehouse

INSPECTOR