The Planning Inspectorate

Appeal Decision

Site visit made on 24 May 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th June 2023

Appeal Ref: APP/P4225/W/23/3314663
30 Bridge Street, Heywood, Rochdale OL10 1JF

- 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 Ms Mehnaz Akhtar against the decision of Rochdale Metropolitan Borough Council.
- The application Ref 22/00633/FUL, dated 10 May 2022, was refused by notice dated 27 October 2022.
- The development proposed is described as a change of use from retail (Class E) to hot food takeaway (Sui Generis); alterations to shopfront; installation of roller shutter; erection of a flue and modular storage to the rear.

Decision

1. The appeal is allowed and planning permission is granted for the change of use from retail (Class E) to hot food takeaway (Sui Generis); alterations to shopfront; installation of roller shutter; erection of a flue and modular storage to the rear, at 30 Bridge Street, Heywood, Rochdale, OL10 1JF in accordance with the terms of the application, Ref 22/00633/FUL, dated 10 May 2022, and the plans submitted with it, subject to the conditions set out in the Schedule at the end of this decision.

Preliminary Matters

2. Whilst differing from that in the application form, I have included in my descriptions above that which was agreed between the main parties during the life of the application.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of neighbouring first floor occupiers, with respect to light and outlook, and noise and odour.

Reasons

4. The appeal site is the ground floor unit with rear yard of a 2-storey end terrace of commercial uses within Heywood Town Centre. The yard also provides an external staircase access to a residential flat above. Alongside the change of use to a hot food takeaway (HFTA), physical works to the front would comprise a glazed frameless elevation and open lattice roller shutter. To the rear would be a modular external refrigeration unit partly under the stairs, and a ventilation flue running vertically between the first floor flat's window and door.

5. The flue's depth and position would block an oblique view out from the rear window to the first floor flat. However, my site visit identified that this view is

predominantly of the close-range flank of the neighbouring building, and that the flue would be unseen from within most of the room. The very long-distance views in the other directions would be retained and these provide a great sense of openness. Furthermore, the window is relatively large and allows for good light ingress, which would be mostly unaffected despite being the sole window to that room. I therefore find that the proposal would not be harmful to outlook or light for the occupiers of this flat.

6. Due to their proximity, the occupiers of this flat and the adjacent first floor flat may be impacted by noise and cooking odours from the ventilation system and the refrigeration unit. The Guidelines and Standards for Hot Food Takeaway Uses Supplementary Planning Document (HFTA SPD) (2015, updated 2017) identifies the need to protect the amenity of adjacent residents. Guideline HF2 specifically requires that ventilation equipment needs to be adequately acoustically attenuated, and should ensure no significant nuisance occurring from odours, fumes, and noise. The SPD also identifies specific parameters and standards for acoustic attenuation.

7. Noise and odour assessments have not been submitted, but drawing P03 'Odour Assessment and Proposed Finishes' recommends a relatively detailed equipment filtration specification, and maintenance. The Council has not provided any substantive evidence as to why those proposals would be inadequate.

8. The HFTA SPD does note that in some cases conditions could be imposed to secure some of the required information for the proposed acoustic treatment, odour abatement techniques, and extraction system schedule of cleaning and maintenance. No reasons have been provided that detailed consideration of these matters via conditions would not be appropriate in this particular case. With regard to the information that has been submitted and the SPD guidance, a condition could therefore be imposed that would prevent the use commencing until acceptable noise and odour controls had been approved and implemented.

9. On this basis, the proposed development would not harm the living conditions of the neighbouring first floor occupiers, with respect to light and outlook, and noise and odour. It would comply with policies DM1 and G9 of the Rochdale Adopted Core Strategy (2016), Guideline HF2 of the HFT SPD, and paragraph 130 of the National Planning Policy Framework ('the Framework') (2021). This policy suite requires developments to create places which have a high standard of amenity for existing and future users, not harm local environmental quality, and not lead to an unacceptable increase in pollution.

Other Matters

10. An interested party has objected based on the presence of other nearby HFTAs and the potential impact on parking, but I find no reason to conclude differently from the Council on these matters.

11. As I have found above that the proposal would cause no harm, whether it would provide any public benefit has not been a determinative matter.

Conditions

12. I have attached the statutory condition to limit the lifespan of the planning permission, and one to specify the approved plans to provide clarity for the terms of the permission.

13. In order to safeguard against odours and noise, I have imposed a condition requiring further details of the extract ventilation system and the external refrigeration system to be submitted to and agreed by the Local Planning Authority prior to the HFTA use taking place. This is based on the Council's suggested conditions requiring noise and odour assessments, subject to amendment to reflect paragraph 56 of the Framework and the Planning Practice Guidance.

14. A condition specifying the colour of the roller shutter and of the flue is necessary to safeguard the character and appearance of the streetscene.

15. I have also imposed a condition which sets the opening hours based on those specified within the application form, as a precaution against the use leading to noise and disturbance throughout the night.

Conclusion

16. For the reasons given above, and having regard to all other matters raised, I conclude the development accords with the development plan taken as a whole with no material considerations outweighing this, and therefore the appeal is allowed.

L Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

   P01 Location and Existing Plans and Elevations

   P02B Floor Plans and Elevations As Proposed

   P03 Odour Assessment and Proposed Finishes

   P04A Extended Side Elevation As Proposed

3) Prior to the use hereby permitted taking place, schemes to remove and/or disperse odours and to control noise including details of the extract ventilation system and the external refrigeration system, shall be submitted to and approved in writing by the Local Planning Authority, and shall be installed and/or implemented. The approved scheme equipment shall thereafter be operated and maintained in accordance with that approval, and retained for so long as the use continues.

4) Notwithstanding condition 2, the open roller lattice shutter and the flue shall have a factory applied finish in the colour RAL 7015 Dark Grey.

17. The use hereby permitted shall only take place between 1100 hours and 2359 hours on Mondays to Fridays, and between 1000 hours and 2359 hours on Saturdays and Sundays and public holidays.

END OF SCHEDULE