The Planning Inspectorate

Appeal Decision

Site visit made on 6 January 2020

by Adrian Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2020

Appeal Ref: APP/P4225/W/19/3238882
71 Smithy Bridge Road, Littleborough OL15 0BQ

- 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 & Mrs Davies against the decision of Rochdale Metropolitan Borough Council.
- The application Ref 19/00406/FUL, dated 2 April 2019, was refused by notice dated 9 August 2019.
- The development proposed is described as change of use from a bakery/café in Smithy Bridge Village to a micro pub.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made by Mr & Mrs Davies. The appeal was made by Mrs Janet Davies. It has been clarified that Mrs Davies and Mrs Janet Davies is one and the same person so I am satisfied that the appeal can proceed on behalf of Mr & Mrs Davies.

3. The parties have made reference to sound proofing details that were submitted with the appeal planning application. The sound proofing details do not form part of the evidence before me so I have not taken it into account in my determination of the appeal.

Main Issue

4. The main issue is the effect of the proposed change of use on the living conditions of the occupiers of neighbouring residential properties, with particular regard to noise and disturbance.

Reasons

5. No 71 is an end terrace property with commercial use at ground floor (vacant bakery/snack bar) and a first floor residential flat above. I am informed that it is within the Smithy Bridge Local Centre, which I observed supports a mix of uses including small scale retail, community and food takeaways, but is nevertheless predominantly residential in character.

6. The micro pub would occupy the ground floor with basement storage. The customer entrance would be from Smithy Bridge Road. Servicing and deliveries would be to the rear where there is shared access from Harry Davies Court. The submissions of the parties state that the micro pub would be open during

12.00 and 22.00 Thursday to Sunday, but the application form submitted with the appeal lists the proposed opening hours as 12.00 to 23.00 Monday to Sunday.

7. It has been put to me that there would be no more disturbance from the micro pub than what there is already. However, the increased frequency, duration and intensity of noise associated with a drinking establishment in this location, both internal and external, would be different to that associated with a predominantly day time retail use of the premises, and similarly to other busy day time retail uses nearby, such as the chemist. There is a greater likelihood that customers would spend more time within and outside the micro pub in the evenings, at weekends, and on bank holidays when it is reasonable for nearby residents to expect a quieter environment. Customers are also likely to converse more than those of a retail use. Indeed, the appellant highlights that promoting conversation is a key characteristic of a micro pub.

8. Internally, there are party walls with 73 Smithy Bridge Road, 4 Harry Davies Court and the flat above. Notwithstanding the absence of objection from the Council's Public Protection Section, the information provided with the appeal does not demonstrate that internally generated noise from the micro pub would not unacceptably disturb the occupiers of the physically adjoining residential properties. I give little weight to the current ownership of adjoining properties as both ownership and occupation of those properties can change.

9. Furthermore, whilst customers may spend most of their time inside, there would still be increased noise arising from customers milling about outside the front of the building, or on their way to or from it, whether by foot or vehicle. This would be likely to be directly audible from the windows of the immediately adjoining residential accommodation, representing a significant noise increase over the existing situation, particularly into the evening. I appreciate the takeaways and off licence will have coming and goings, but they are further away from the properties adjoining the appeal site and I do not consider the nature of those uses to be the same as the proposed micro pub, which would be a social gathering place.

10. In reasoning the above, I appreciate that the appellant aims to create a pleasant environment that may attract a different type of clientele to other drinking establishments and that it is intended to operate the premises considerately to minimise disturbance. However, I am required to be mindful of the proposal over its lifetime. In this respect, there could be no guarantee that future operators would aim to attract a similar and responsible clientele or that future customers would be mindful of the surrounding residential uses.

11. These considerations lead me to the view that there is an unacceptable risk that the living conditions of the occupiers of nearby residential accommodation, particularly those physically attached to the appeal site, would be harmed through noise and disturbance associated with the proposal. I am not satisfied on the evidence before me that it would be possible to deal with these matters through the use of planning conditions, including reduced opening hours.

12. I therefore conclude that the proposed change of use would lead to unacceptable harm to the living conditions of the occupiers of neighbouring residential properties, by means of noise and disturbance. It would, in this regard, be contrary to Policies DM1 and G9 of the Rochdale Adopted Core Strategy 2016. These require, among other things, that new development,

including change of use, is compatible with surrounding uses and does not lead to an unacceptable increase in noise. It would also be contrary to paragraph 180 of the National Planning Policy Framework (the Framework) in this respect.

Other Matters

13. I recognise that the proposal would result in a vacant building being brought back into a beneficial use and generate employment. In this regard, the proposal would be beneficial to the local economy, and it would widen the range of uses in the local area for residents and visitors. I also acknowledge that the micro pub would be accessible by walking and public transport, and it would be acceptable in highway safety terms. Nonetheless, these matters do not outweigh the harm I have identified to nearby residents' living conditions and the proposal's failure to comply with the policies of the adopted development plan in this respect. As such, the proposal is not sustainable development, as set out in the Framework.

14. Claims that the proposal would deter vandals and improve security are made without any substantive evidence to support them, so I give them very little weight.

15. It has been suggested that the proposal would lead to improvements to the external appearance of the building, but I observed the property to be in good condition with clean stonework and what appeared to be new windows, so I do not consider that its condition currently detracts from the appearance of the area.

16. I have noted the appellant's concerns about engagement with the Council at pre-application and during the Committee meeting, however, these are matters to raise with the Council direct and do not alter my consideration of the planning merits of the appeal.

Conclusion

17. For the reasons given and having taken into consideration all other matters raised, I conclude that the appeal should be dismissed.

Adrian Caines

INSPECTOR