



Appeal Decision

Site visit made on 18 March 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2019

Appeal Ref: APP/G4620/W/18/3210131

Matharus Wedding and Event Specialists, 10 Roebuck Lane, West Bromwich B70 6QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Harpreet Singh Matharu on behalf of Matharus against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/17/61365, dated 18 December 2017, was refused by notice dated 16 March 2018.
 - The application sought planning permission for the change of use of buildings to a conferencing and banqueting suite and improvements to external facades; development of new two storey B1 (Business Units) to the rear, to include some demolition of outbuildings; development of associated car park and infrastructure works without complying with a condition attached to planning permission Ref APP/G4620/A/09/2115265, dated 2 July 2010.
 - The condition in dispute is No 4 which states that:
The use hereby permitted shall not be open to customers outside the following times: 18.30 – 22.00 hours Monday to Friday; 12.00 -23.00 hours on Saturdays, Sundays and Bank holidays, and the car park shall be closed by 23.30 hours on any day that the facilities are open to the public.
 - The reason given for the condition is:
...to ensure that as far as possible the facilities are used in such a way as to be neighbourly to nearby residential occupiers.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of buildings to a conferencing and banqueting suite and improvements to external facades; development of new two storey B1 (Business Units) to the rear, to include some demolition of outbuildings; development of associated car park and infrastructure works at Matharus Wedding and Event Specialists, 10 Roebuck Lane, West Bromwich B70 6QP in accordance with the application Ref DC/17/61365 dated 18 December 2017, without compliance with condition number 4 previously imposed on planning permission Ref APP/G4620/A/09/2115265 dated 2 July 2010 and subject to the conditions contained in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Harpreet Singh Matharu on behalf of Matharus against Sandwell Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. Planning permission was granted in 2013¹ to vary the subject condition to '*For a TEMPORARY TWO YEAR PERIOD, the use of the premises for conferencing and the B1 (Business Units) shall be within the following hours: 08.00-18.30 hours Monday to Fridays and not at all on Saturdays and Sundays; that the use of the premises as a banqueting suite shall be within the following hours 18.30-22.00 Mondays to Thursdays, 18.30-23.00 hours on Fridays, 08.00-23.00 hours on Saturdays and 10.00-23.00 hours on Sundays and Bank Holidays and the car parks shall be closed to the public by 23.30 hours on any day.*' The two-year period has now lapsed. The reasons for imposing this condition was '*To allow the extended hours of operation to be assessed in light of any adverse impacts on the amenity of local residents by reason of noise and general disturbance.*'
4. The Council refer to the current proposal as separating the opening hours for the individual uses, as per the planning permission granted in 2013. However, as set out in the planning application form, the proposal seeks to vary the subject condition to read:

The use hereby permitted shall not be open to customers outside the following times: 08.00 - 22.00 Monday - Thursday, 08.00 - 23.00 - Fridays, Saturdays, Sundays and Bank Holidays, and the car park shall be closed by 23.30 to the public.
5. There is no distinction made between the individual uses. I have determined the appeal on this basis.

Main Issue

6. The main issue is the effect of the proposed change in opening hours on the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance.

Reasons

7. The proposed opening hours would enable the use of the building for the public during the daytime. The building would not be open to the public any later than is already permitted, with the exception of a Friday when it would be open until 23.00 instead of 22.00 hours, similar to Saturdays, Sundays and Bank Holidays.
8. Local residents raise concern that loud music and people loitering around the site causes noise disturbance. However, as it is only Fridays where the building would be open later, by just one hour, I do not consider that this would have a significantly material effect on noise disturbance or anti-social behaviour. The noise impact assessment carried out by Hoare Lea, dated 1 June 2018 supports this view. It is unlikely that such behaviour would take place during the remaining proposed changes to the opening hours as these would be much earlier in the day.
9. I acknowledge that when events are held at the site on-street parking provision would likely be limited and some residents may not be able to park outside their homes. However, the surrounding roads have unrestricted parking and there is no substantive evidence before me of any traffic accidents that have

¹ LPA Ref DC/12/54450

been a direct result of the proposed use since it has been in operation. The proposed opening hours would cover parts of the day when people are likely to be at work when the demand for on street parking is likely to be less than during the already permitted opening hours. Therefore, whilst I accept that local residents are already inconvenienced by the lack of on street parking, I do not consider that the proposed development would significantly exacerbate this.

10. I note that local residents confirm that the existing opening hours have been breached. Notwithstanding this, I am satisfied that an appropriately worded condition restricting the opening hours would be enforceable. Accordingly, any breaches of existing conditions have had very little bearing on my consideration of the planning merits of the proposal.
11. Notwithstanding the above, in order to minimise any potential harm to the living conditions of neighbouring residents, the separation of the individual uses and their opening hours, as suggested by the Council, would prevent all of the uses taking place simultaneously and therefore reduce the potential number of people attending the site at the same time. This would reduce the demand for on street parking. Moreover, given the proximity of the site to residential properties, I consider that the opening hours of 10.00 – 23.00 hours on a Sunday and Bank Holidays to be more suitable than the 08.00 – 23.00 hours applied for. I note that the appellant raises no objection to the Council's suggested condition.
12. I therefore find that the proposed changes to the opening hours, as set out in the Council's suggested condition, would not significantly harm the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance. As such, I find no conflict with Policy TRAN2 of the Black Country Core Strategy 2011, which states that planning permission will not be granted for development proposals that are likely to have significant transport implications.
13. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I grant a new planning permission substituting the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule marked 'PLANS' at the end of this decision.
- 3) The use of the premises for conferencing and the B1 (Business Units) shall be within the following hours: 08.00 - 18.30 hours Mondays to Fridays and not at all on Saturdays or Sundays; that the use of the premises as a banqueting suite shall be within the following hours: 18.30 - 22.00 hours Mondays to Thursdays, 18.30 - 23.00 hours on Fridays, 08.00 - 23.00 hours on Saturdays and 10.00 - 23.00 hours on Sundays and Bank Holidays and the car park shall be closed to the public by 23.30 hours on any day.
- 4) Before the development has commenced a detailed acoustic scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with those approved details before the use is implemented and shall therefore be retained.
- 5) All external windows and doors to the conferencing and banqueting suite when it is in use shall remain closed at all times, except in the case of the doors in an emergency and to allow normal ingress and egress to the building. Ingress and egress to the building for visitors to the conferencing and banqueting facilities shall at all times, other than during an emergency, be restricted to the doors in the eastern elevation annotated 'Main Entrance' on the submitted plan.
- 6) Before the development is commenced or use implemented, details of all fixed plans including calculated noise levels at the nearest affected dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before the use is implemented and shall thereafter be retained.
- 7) Before the development is commenced, details of ventilation and odour control equipment shall be submitted to and approved in writing by the local planning authority. The equipment to be installed in accordance with the approved details before the use is implemented and thereafter maintained in accordance with the manufacturer's instructions.
- 8) Before the development has commenced an events management scheme shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details and shall include measures to (i) manage the car park and ensure that it closes no later than the time specified in condition 4) above, and (ii) Ensure that no event is attended by more than 650 persons at anyone time and that the timing of events does not lead to this figure being exceeded during any period of overlap.
- 9) The details set out in a Travel Plan approved as part of the planning application shall be carried out upon implementation of this permission and thereafter retained for the duration of the approved use.

PLANS

- A Application plans: Ordnance Survey Site Plan; Drawing No. 2026 02 Existing Elevations; 2026 03 Proposed Ground Floor Plan & Parking Layout; 2026 04 Proposed Elevations; 2026 25A Elevations & Sections of Proposed Business Units.