



Appeal Decision

Site visit made on 19 July 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Appeal Ref: APP/G4620/W/19/3227763

Unit 21 Mount Pleasant Street, West Bromwich B70 7DP

- 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 S Ali against the decision of Sandwell Metropolitan Borough Council.
 - The application, ref. DC/18/62395, dated 8 November 2018, was refused by notice dated 15 February 2019.
 - The development proposed is the change of use of an industrial unit to a snooker hall.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of an industrial unit to a snooker hall; at Unit 21 Mount Pleasant Street, West Bromwich B70 7DP, subject to conditions attached as an annex to this decision.

Preliminary Matter

2. As part of the appeals process, the Appellant has submitted correspondence via emails from the West Midlands Police Licensing Unit with regards to crime levels in the area¹. This further information submitted by the appellant provides additional clarification to a main issue and which does not result in changes to the scheme. The Council have commented upon this information and in accordance with the 'Wheatcroft Principles'² I find that the acceptance of this further information would be appropriate and not deprive those who should have been consulted or the opportunity of such consultation. As such, I will accept this further information and will base my decision upon it.

Main issues

3. The main issues are:
 - The effect of the development upon highway safety, with particular regard to vehicular parking; and
 - Whether the proposed use would cause an unacceptable risk to the locality as a result of crime and anti-social behaviour.

¹ Email correspondence between Mohammed Tanveer and PC Nicholas Steventon, dated 5 April 2019, 6 April 2019, 8 April 2019, and 12 April 2019.

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Reasons

Highway Safety

4. The appeal site lies on the corner of Mount Pleasant Street and Pleasant Street, which are both cul-de sacs within an industrial estate, although the opposite side of Mount Pleasant Street backs onto residential properties that front onto Newhall Street. The appeal site contains a single storey industrial building that is setback from Pleasant Street and Mount Pleasant Street, with an informal gravelled area between the footpath along Pleasant Street and the building for vehicular parking. An enclosed open area is to the front of the building along Mount Pleasant Street.
5. I appreciate that the parking and highway conditions that I experienced on my site visit was only a snapshot of the parking at this particular time, however I have also considered the evidence submitted by both main parties and, in the light of this, I am satisfied that what I saw represents typical conditions.
6. Mount Pleasant Street and Pleasant Street have unrestricted parking on both sides and whilst wide, there did appear to be a reasonable amount of on street parking, albeit when this occurs on both sides of the road it impedes simultaneous two-way flow. The result being that vehicles often have to stop momentarily to give way to traffic coming in the opposite direction. However, as the streets are cul-de-sacs, it appeared that traffic volumes are fairly low and driven speeds are under the 30mph speed limit and that many of the uses are industrial in nature and do not operate into the evening. I have not been made aware of a poor accident record for either of the streets and therefore I deduce that despite its deficiencies, both Mount Pleasant Street and Pleasant Street operate satisfactorily without any significant highway safety issues.
7. The site would provide a total of 23 spaces and cater for a maximum of 39 people on site at any one time, including staff. Given that the site has good accessibility to public transport, and an average forecasted occupancy of 60% at any one time, the existing car parking would be able to cater for the likely demand from the proposed use. Whilst I note that comments are made with regards to the appeal site being utilised informally for the parking of vehicles from the surrounding area, the use of the site should enable this informal parking to be brought under control and does not indicate that these cars cannot be catered for within their own industrial sites or within on street parking. Despite this, the assessment is whether the change of use would itself displace vehicles onto the highway, and in this particular circumstance I am not convinced that this would be the case.
8. Given the operation of the facility would typically attract more customers during the afternoon and the evening, the roads at this time would also be free of parked vehicles with the industrial units being closed at this time.
9. That said, I am not convinced that the change of use would displace vehicles onto the road that would result in unacceptable impacts towards highway safety. As such the scheme would be compliant with Paragraph 109 of the National Planning Policy Framework (the Framework) which seeks that applications should prevent unacceptable impacts towards highway safety, or the residual cumulative impacts on the road network would be severe.

Crime and anti-social behaviour

10. Paragraph 91 of the Framework seeks that developments ensure that environments are safe and accessible, so that crime and disorder, and the fear of crime, does not undermine the quality of life or community cohesion.
11. Whilst no detailed reports of incidents have been submitted, the Council note that within this particular area that anti-social behaviour is the second highest crime reported after assaults and is a crime type that is increasing; and that the area of the appeal site is ranked fourth in the Council area in terms of vehicular thefts. During the appeal the Appellant has submitted an email from the West Midlands Police which confirms the area is regularly patrolled and advice with regards to opening hours, whether the premises would be licensed, live music and people leaving the premises which can cause nuisance to surrounding residential dwellings. I also acknowledge comments from residents who express concerns regarding the proposed use likely attracting anti-social behaviour and a potential increase of crime. However, I also note that the proposed use would not sell alcohol (which much of the anti-social behaviour appears to stem from) and hours of opening would be restricted from 9:00 -21:00 Monday to Saturdays and 10:00-16:00 on Sundays.
12. Based on the evidence before me, there is no firm evidence that such occurrences of crime, which are ultimately a matter for the relevant authorities to manage, would be attributed to the proposed change of use. Whilst I note submissions from surrounding residents of newspaper articles of crime at snooker halls, these are isolated incidents which do not represent the typical snooker use or industry as a whole. Crime and disorder does not seem to me to be an inevitable consequence of a snooker use, but is rather a question of individual behaviour and appropriate management.
13. That said, I find that the change of use on its own or cumulatively, in the absence of any compelling evidence, would not likely increase opportunities for crime and anti-social behaviour. It follows that the scheme would not conflict with paragraph 91 of the Framework which seeks that developments ensure that environments are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Other Matters

14. I note comments from neighbouring residents regarding proposed noise levels and resultant harm caused to living conditions as a result of the new use which were initially objections to an earlier version of the application whereby opening hours were much later and information about the management of the facility was not as detailed. During the course of the application, the opening times have been revised as well as the operation of the venue with customers needing to book, with no sale of alcohol on the premises. These concessions made as part of the application should not result in adverse detriment to living conditions of surrounding residents.

Conclusions and Conditions

15. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be

allowed and planning permission granted, subject to the conditions as detailed in the annex accompanying this decision.

16. I refer to the conditions specified by the Council in their Statement of Case, if the appeal was to be allowed and have considered them in accordance with the Planning Practice Guidance (PPG). It is also noted that each of the proposed pre-commencement conditions were agreed with the Agent for the Appellant in reply to a Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 which was issued by the Planning Inspectorate on 12 August 2019 and responded by the Agent for the Appellant by email dated the 12 August 2019.
17. Suggested Conditions 1 and 2 seek time periods for the decision and the compliance with approved plans. This is necessary for the avoidance of doubt and in the interests of proper planning.
18. Suggested Conditions 3 and 4 seeks to restrict opening hours of the use and also the use of amplified sound which is necessary in the interests of residential living conditions, with some residences being located nearby which could be affected by noise.
19. Suggested Condition 5 seeks the approval of boundary walls and fences. This is necessary to approve suitable boundary treatment which will fit in with the character, privacy and appearance of the area. The condition is necessary as a pre-commencement condition as the parking facilities need to be in place before the use starts.
20. Suggested Condition 6 seeks the laying out of the car parking area which is necessary in that it assists in controlling the movement of cars within the parking area and ensuring that adequate off-street parking facilities are supplied for the safety and convenience of users of the highway. The condition is necessary as a pre-commencement condition as the parking facilities need to be in place before the use starts.
21. Suggested Condition 7 seeks to limit the use of the building to only the snooker use, which is considered necessary as different uses within the use class may need further consideration as to their appropriateness.
22. Suggested Condition 8 seeks to create a formal vehicular dropped kerb in order to facilitate access to the car parking area. This condition is necessary in that it assists in controlling the movement of cars within the parking area and ensuring that adequate off-street parking facilities are supplied for the safety and convenience of users of the highway. The condition is necessary as a pre-commencement condition as the parking facilities need to be in place before the use starts.
23. In order to provide further clarity, I have reordered the conditions in terms of one that require pre-commencement located to the top.

J Somers

INSPECTOR

Annex: Schedule of conditions

1. The development must conform with the terms of and the plans accompanying the application for permission and must remain in conformity with such terms and plans, save as may be otherwise required by (any of) the following condition(s), or approved amendment(s).
2. The development must be begun not later than the expiration of 3 years from the date of this permission.
3. a) Before the development is commenced details of any walls or fences to be erected on the boundaries of the site shall be submitted to and approved by the local planning authority.
b) The approved boundary walls or fences shall be constructed in accordance with the approved details and thereafter retained as such.
4. a) Before the use is commenced space shall be provided (including marking out) within the curtilage of the site for the parking and manoeuvring of vehicles in accordance with the approved details.
b) When provided the approved space for the parking, loading, unloading and manoeuvring of vehicles shall be retained as such.
5. The development shall not be brought into use unless and until a new vehicle crossing has been provided to serve the development hereby approved by this permission in accordance with details submitted in writing to and approved by the local planning authority.
6. The use hereby approved shall be open only between 09.00 - 21.00 hours Mondays to Saturdays, 10.00 - 16.00 hours on Sundays and there shall be no opening on Bank Holidays.
7. There shall be no amplification of sound to a degree that it is audible outside the application premises.
8. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (Or any Order revoking and re-enacting those Orders with or without modification), the approved use shall be used solely for the use applied for and for no other purposes.