
Appeal Decision

Site visit made on 7 September 2015

by I Radcliffe BSc(Hons) MCIEH DMS

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

Decision date: 30/09/2015

Appeal Ref: APP/K2420/W/15/3063791

The Pantry, 102 Rugby Road, Hinckley, Leicestershire LE10 0QE

- 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 Kamal Ullah against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 15/00074/COU, dated 28 January 2015, was refused by notice dated 7 April 2015.
 - The development proposed is change of use of ground floor from hot food takeaway to Bangladeshi Meeting Centre and alterations to ground floor front (west) elevation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor from hot food takeaway (Use Class A5) to Bangladeshi Meeting Centre (Use Class D1) and alterations to ground floor front elevation at The Pantry, 102 Rugby Road, Hinckley, Leicestershire LE10 0QE in accordance with the terms of the application, Ref 15/00074/COU, dated 28 January 2015, subject to the conditions in the schedule at the end of this decision.

Procedural matters

2. The application stated that the proposed development would be open 08.00 hours to 20.00 hours. In order to protect the living conditions of nearby residents the parties were invited to comment on a condition restricting opening of the centre to between these hours. The comments of the parties received in relation to this matter have been taken into account in the writing of this decision.
3. Reference has been made to plan ref B13/22/B010 Rev D by the Council. However, on closer examination and consideration of the other submitted plans the correct reference appears to me to be B13/22/B01D. I have therefore referred to this plan on this basis.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the living conditions of nearby residents, with regard to noise, disturbance and indiscriminate parking.

Reasons

5. The appeal site is a semi-detached building that has been extended to the front and side. It is located on the corner of Rugby Road and Willowbank Road close to the point where residential properties give way to large scale office and retail use on the edge of the town centre.

6. Permission was granted on appeal for a hot food takeaway on the appeal site with a closing time of 8pm. Given the transitional character of the area, and the busy nature of Rugby Road, a subsequent appeal found that later closing would not result in noise and disturbance that would harm the living conditions of nearby residents. As a consequence, closing time was extended by condition to 9pm.
7. A hot food takeaway (Use Class A5) is a different use to a Meeting Centre (Use Class D1). The appellant refers to use of the centre as a meeting place, the provision of children's classes and for prayers. Both use types would therefore attract people and generate vehicle movements. However, a hot food takeaway would involve short visits of a few people at a time whereas visits to a meeting centre would involve larger numbers of people for longer periods of time. Nevertheless, similar considerations apply. The Meeting Centre confined to the ground floor of the building would be small in keeping with the size of the local Bangladeshi community. Should they in time outgrow the size of the centre it is a reasonable assumption to make that they would seek larger premises rather than continue to use premises that are no longer big enough. As a result, other than to greet each other and briefly chat outside the building, I do not consider that centre users would congregate outside long enough to cause disturbance to nearby local residents.
8. The living conditions of the occupiers of the attached dwelling No 100 owned by the appellant would not be adversely affected by the proposal to a material degree. This is because with the existing use of the premises as a hot food takeaway and the sound insulation works that have been carried out the proposed change of use would not result in appreciably higher levels of noise.
9. Given the busy nature of Rugby Road, I do not consider that the levels of traffic, dropping off, parking and movement of vehicles and people resulting from the proposed development would result in noise and disturbance that would have a significant adverse effect on living conditions.
10. The off road parking provided at the premises would be insufficient to cater for all the users of the centre. However, along the eastern side of Rugby Road in the immediate vicinity of the site are approximately fifteen on road parking spaces. During the site visit, which occurred at 15.00 hours, two thirds of these spaces were vacant. These spaces can be used for up to one hour between 08.00 hours and 18.00 hours. Outside of these times their use is unrestricted. Furthermore, the appeal site is located within Hinckley close to its centre. As a result, it is accessible by bus and is within cycling and walking distance of a large number of dwellings within the town. As a consequence, centre users would have a range of transport options available to them and would not be dependant upon the use of a car to access the proposed centre.
11. Subject to its users abiding by the parking restrictions that apply, and with the range of means of accessing the site available, I find that indiscriminate parking which would inconvenience local residents is unlikely to occur. Should this not be the case, with the regular meeting hours and timing of prayers it would be a straightforward matter to take enforcement action against parking contraventions.
12. In terms of the proposed car park, the Council does not object to it on the grounds of highway safety. I agree with their assessment. As Willowbank Road is a no through road, I do not consider that manoeuvring vehicles would

cause congestion sufficient to demonstrably harm the living conditions of nearby residents.

13. For all of these reasons, I therefore conclude that subject to the proposed development being open only during the stated times of 08.00 hours to 20.00 hours it would not result in noise and disturbance, or indiscriminate parking, that would harm the living conditions of nearby residents. Given the accessibility of the site, the level of parking provision provided would reflect the site's specific circumstances. The proposed development would therefore comply with policies BE1 and TE5 of the Hinckley and Bosworth Local Plan which, amongst other matters, seeks to prevent harm to living conditions and the provision of appropriate levels of parking.

Other matters

14. As part of the proposed change of use the shop front would be removed and replaced with two small windows. A new front door would also be fitted. The Council has no objections to the design of these external changes. I agree with their assessment.

Conditions

15. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. In the interests of highway safety, further details on parking arrangements are required. To ensure that the development complements its surroundings the external materials used in the alterations need to match the existing building. In the interests of residential amenity, use of the building needs to be restricted to the use for which permission has been granted and the opening hours restricted to those contained in the application.
16. I have required these matters by condition, revising the conditions suggested by the Council where necessary to better reflect the requirements of Planning Practice Guidance.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Ian Radcliffe

Inspector

Schedule

- 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 following approved plans: B13/22/L01A, B13/22/E01C, B13/22/B01D
- 3) Notwithstanding the submitted details, prior to first use of the premises as a meeting centre full details of the proposed access, surfacing, visibility splays, car parking and turning facilities and cycle parking shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented and completed prior to first

use of the premises as a meeting centre and shall thereafter be so retained.

- 4) The materials to be used in the alterations to the external elevations hereby permitted shall match those used in the existing building.
- 5) The ground floor of the premises (in part) shall be used for the purposes of a meeting room, community room and associated facilities only as defined within the approved plan Drawing B13/22/B01D and for no other purpose (including any other purpose falling within Class D1, Schedule 2 of the Town and Country Planning (Permitted Development) (England) Order 2015.
- 6) The use of the ground floor hereby permitted shall not take place other than between the hours of 08.00 – 20.00.