



Appeal Decision

Site visit made on 21 November 2018

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 24th January 2019

Appeal Ref: APP/W0734/W/18/3208137
12-14 Albert Road, Middlesbrough TS1 1QA

- 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 Mohammed Bashir against the decision of Middlesbrough Borough Council.
 - The application Ref 17/0156/COU, dated 11 March 2017, was refused by notice dated 8 March 2018.
 - The development proposed is change of use of former recruitment agency (A2) to taxi booking office (sui generis).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on highway conditions and public safety in the area, and the effect of the proposal on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons

Background

3. The appeal site at 12-14 Albert Road is located in the town centre. In principle, the Council consider the proposed use as a taxi booking office to be acceptable in principle in this location, and I have no basis on which to take a different stance. The original version of the scheme proposed to operate the business entirely from the front of the site, with customers being collected from Albert Road by their private hire vehicle.
4. In response to concerns, the appellant has proposed a revision to the scheme so that, between 23.00hrs and 04.00hrs, customers would leave the office by a rear door to be picked up from Albert Mews. At all other times, customers would be collected from the front of the office on Albert Road. I have been invited by the appellant to consider both these options, and the Council have offered no objection to this approach. I have therefore assessed the appeal proposal on this basis.

Highways

5. Albert Road is a main thoroughfare within central Middlesbrough, and is characterised by a number of businesses associated with the night-time economy, including bars, nightclubs and food outlets. The appellant's taxi

business has been established for some time, with a head office on the outskirts of Middlesbrough. The appeal scheme would create a satellite booking office, allowing customers to wait for their transport in an indoor environment.

6. The Council are concerned that the development would give rise to the need for cars to double park in the carriageway to collect customers, which would jeopardise the safe and efficient movement of traffic. In support of their case, the appellant has submitted a document entitled 'Proof of evidence – highways' (POEH, July 2018). This document concludes that traffic conditions along Albert Road in the vicinity are generally quiet, with no apparent congestion problems. However, as this conclusion is drawn from a single six hour survey, it is unclear how typical the conditions were on that particular night, and therefore how representational the survey is.
7. The POEH includes a Traffic Conditions Visual Survey (TCVS) that was carried out on Saturday 19th May 2018 from 10pm until 4am on the following Sunday morning. The TCVS shows that traffic and parking became busier after 23.00hrs, predominantly with taxis and private hire vehicles travelling north, on the opposite carriageway to the appeal site. Fewer vehicles were observed travelling southwards.
8. By 01.00hrs, most of the parking bays appeared to be occupied, and demand reduced after around 02.15hrs. The number of taxis in the area increased at around 02.00hrs, coinciding with the peak closing time for clubs, and people were observed to leave gradually, rather than all at once. Crucially, no taxis were observed using any of the parking spaces. This observation underlines the Council's concern that taxis would wait in the carriageway to pick up their customers. As the parking bays are for use by the general public, they would not be within the control of the appellant, and so could not be reserved for the use of the taxi business in any case, even if the drivers wished to use them.
9. The TCVS states that fewer taxis and private hire vehicles travelled from north to south on Albert Road, on the carriageway adjacent to the appeal site. Nonetheless, these vehicles did pick up the majority of their fares towards the north end, and queuing was observed, albeit for a few seconds. I note that no queue was observed extending back to the junction with Wilson Street.
10. However, these observations only take into account the existing circumstances, whereby no taxi rank or taxi/PVH office exists in the vicinity of the appeal site. It is inevitable that, under Option A, whereby the appellant's customers would be picked up from outside the office on Albert Road on a 24hour basis, there would be an increase in vehicle activity. Given the proximity of the appeal site to Wilson Road, it would not take many queuing vehicles to stretch back and potentially obstruct the junction. This would be clearly detrimental to the efficient flow of traffic, and to the safety of pedestrians and other road users.
11. The appellant refers to the injury accident record for the period 01/01/2012 to 30/09/2017, which shows that seven incidents were recorded within this period. I accept that this is relatively a low number, but it would not mitigate my concerns in relation to the new circumstances that would be introduced by the appeal proposal.
12. As described above, Option B would avoid the picking up of customers from Albert Road during peak times, and to that extent would ameliorate the traffic

impacts during those hours. However, I share the Council's concern that the need to double park on Albert Road could occur at any time, to the detriment of traffic and safety conditions.

13. In the absence of any compelling evidence to the contrary, I therefore conclude that either version of the proposed development would have an unacceptably hazardous impact on highway conditions and public safety in the area, contrary to Policy DC1 of the Middlesbrough Local Development Framework Core Strategy (CS), insofar as it seeks to ensure limited impact upon the capacity of existing transportation infrastructure, with no impact on highway safety being evident at all throughout the development process. It would also conflict with the National Planning Policy Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, as there would be in this case.

Living conditions

14. Residential properties at Parkinson House are located close to the rear of the appeal site. The Council's Environmental Health service has raised concern over the effect on living conditions of the proposed operation of the taxi service from Albert Mews between 23.00hrs and 04.00hrs, under Option B. This would coincide with the hours when many residents would be relaxing or sleeping, and would therefore expect a more tranquil background environment.
15. My attention has been drawn to a number of commercial and residential developments recently approved in the vicinity of the appeal site. The appellant cites the planning permission at 15-25 Albert Road¹ to illustrate that the character of the area is informed by noisier uses and more traffic than in suburban areas, and points out that residential development has been allowed at 45-49 Albert Road², close to the appeal site. I accept that in a town centre location, dwellers should expect greater levels of background noise than elsewhere. However, this does not negate the need to consider each case on its individual merits.
16. In response to the Council's concerns, the appellant commissioned and submitted a Noise Impact Assessment (NIA, dated 28 November 2017). A noise survey and assessment of the noise from activities associated with the development were carried out. The observations were carried out over one weekend at a single location representative of the nearest noise-sensitive receptor. As there would be two taxi bays at the appeal site, the assessment allowed for 12 taxi movements per hour, three car door slams per taxi movement, and raised voices for 60 seconds per movement. The study concludes that the noise generated by the proposal would exceed the background noise level by 1dB.
17. However, this assessment does not take into account additional noise events such as horns blowing, and the potential for voices to be raised for more than 60 seconds at a time. I note that it is illegal to use car horns during certain hours of the night, but the fact that it is illegal does not mean that it would not happen. Given the context whereby customers would be making their way home after a night of drinking and revelry, there is a high possibility that shouting or fighting could occur in or around the taxi bays.

¹ M/FP/1244/14/P

² 17/0905/PNR

18. The character of such noise could be highly variable, unpredictable, and intrusive. Occasionally very loud erratic noise from the appellant's customers would therefore have the potential to cause significant disturbance for occupiers of the nearby dwellings. I accept that it is the appellant's intention that customers would only be on Albert Mews briefly to enter their private hire vehicle. However, people do not always behave as predicted or expected, especially after a night's drinking.
19. The appellant argues that the employment of a taxi marshal, in conjunction with CCTV and signage, would provide significant mitigation of potential noise and disturbance. However, whilst these measures may go some way to deter bad behaviour, this might not always be the case. Moreover, the use of a taxi marshal could not be subject to a planning condition. I therefore share the Council's concern that placing reliance on such measures to make the scheme acceptable would not be appropriate.
20. Drawing these factors together, I conclude that it has not convincingly been demonstrated that the development would have an acceptable impact on the living conditions of nearby residents, contrary to CS Policy DC1, insofar as it requires the effect upon the surrounding environment and amenities of occupiers of nearby properties to be minimal both during and after completion.
21. The appellant refers to the change of use at 8 Albert Road from office to bar/restaurant³ as being a far worse development in terms of noise than the appeal scheme. However, the Council considered that this proposal would be acceptable in terms of residential amenity, and I have no firm basis on which to take a different view.
22. I accept that there are other uses, such as Soprano's Hot Food Takeaway at 39 Wilson Street, that contribute to late evening activities in the area. The appellant states that guests staying at a new hotel development at Wilson Street⁴ will inevitably walk or drive along Albert Mews, and that the noise from these activities would be difficult to discriminate from the appeal site. They state that a hotel at 55 Corporation Road⁵ also contributes to comings and goings in the area. However, these circumstances would not justify any additional harm that would arise from the appeal scheme.

Other Matters

23. The appeal site is in the Station Conservation Area (CA). I am therefore required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act to have special regard to the desirability of preserving or enhancing the character or appearance of the CA. However, I am satisfied that the proposal would have little appreciable impact on the character or appearance of the CA, and so the statutory duty is met.
24. I note that the appellant has obtained planning permission for similar satellite taxi booking offices elsewhere in the area. I have been provided with decision notices and planning officer reports for each of these. At 51 Westgate, Guisborough⁶, the Council's Environmental Protection respondent indicated some concern over noise disturbance to nearby residents. However, they

³ M/FP/0148/16/P

⁴ M/FP/1289/14/P

⁵ 18/0349/FUL

⁶ R/2016/0646/CA

considered that this could be overcome by the use of a planning condition requiring sound insulation of the taxi booking office building.

25. This was also the case at 100 High Street, Redcar⁷, with an additional condition suggested to limit the opening hours of the premises. At 112 High Street, Stockton-on-Tees⁸, the Environmental Health Unit offered no objection to the development. These details alone lead me to conclude that these cases do not offer a direct parallel to the scheme before me, which limits the weight I can give them.
26. The appeal scheme would bring about some modest social and economic benefits in terms of providing employment, and a service that would otherwise be compatible with the night-time economy of the surrounding area, and the regeneration vision for Albert Road. However, these benefits would not outweigh the harm I have identified.

Conclusion

27. For the reasons above, I conclude that the proposal would conflict with the development plan as a whole, and so the appeal is dismissed.

Elaine Gray

INSPECTOR

⁷ R/2017/0084/FF

⁸ 18/0391/COU