



## Appeal Decision

Site visit made on 2 April 2019

by **Sarah Manchester BSc MSc PhD MIEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 30<sup>th</sup> May 2019

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**Appeal Ref: APP/W0734/W/18/3216829**

**107-109 Waterloo Road, Middlesbrough, Cleveland TS1 3HZ**

- 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 N Hussain against the decision of Middlesbrough Borough Council.
  - The application Ref 18/0488/FUL, dated 1 June 2018, was refused by notice dated 14 September 2018.
  - The development is described as timber doors to rear wall.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The appeal scheme is a re-submission of an earlier application (ref 18/0162/FUL) for the installation of timber doors to the rear wall which was refused. The development has already been carried out.

### Main Issues

3. The main issues are the effects of the doors on:
  - i) The character and appearance of the area; and
  - ii) The living conditions of the occupiers of No 46 Acton Street in relation to noise and odours.

### Reasons

#### *Character and appearance*

4. The appeal property is a restaurant on the corner of Waterloo Road and Acton Street. The new doorway is to the rear of the property, opening onto a narrow alleyway that provides access to the rear of properties on Acton Street and Woodlands Road. Although not in a prominent street side location, the entrance is visible from Acton Street and will be seen by users of the gated alleyway.
5. The panelled timber double doors have an incongruous domestic appearance that is not in keeping with the commercial roller shutter doors elsewhere at the property. The design of the doors is also out of keeping with the external doors of nearby residential properties. Moreover, the entrance has not been finished to a high standard. Consequently, the doors do not relate well to either commercial or residential properties in the surrounding area and they do not make a positive contribution to the appearance of the local area.

6. I therefore conclude that the timber doors to the rear wall unacceptably harm the character and appearance of the area. The appeal scheme would conflict with Policy DC1 of Middlesbrough Local Development Framework Core Strategy (the Core Strategy) Adopted February 2008 which requires, amongst other things, that development is of a high quality in terms of its appearance and relationship to its surroundings.

#### *Living Conditions*

7. The doorway is separated from No 46 Acton Street by the alleyway. There is evidence before me to demonstrate that the operation of the appeal premises in this location results in nuisance to the occupiers of No 46, including through use of the alleyway for storage purposes and noise from the ventilation system. However, these are not matters that can be addressed as part of this appeal.
8. By virtue of its proximity to the first floor bedroom window in the side elevation of No 46, the occupiers of that property will be aware of activity associated with the use of the doorway. In this regard, there is evidence of adverse effects including noise disturbance and strong cooking odours, which are exacerbated by the doors being left open. These harmful effects will also be greater at times outside of normal retail hours, when the neighbouring occupiers could reasonably expect to enjoy their property free from noise disturbance and cooking smells.
9. While the doors were closed at the time of my visit, I was nevertheless aware of both noise and cooking odours emanating from the rear of the premises. Restricting the way in which the doors are used, or the time at which they are allowed to be opened, would not be a practical solution that would mitigate the harm to the occupiers of No 46. For that reason, it would not be possible to overcome the harm that I have identified through the imposition of a condition.
10. I therefore conclude that by virtue of their design and location, the doors significantly harm the living conditions of the neighbouring occupiers of No 46 as a result of unacceptable noise and odours. This conflicts with the development plan, including Policy DC1 of the Core Strategy which requires development to have a minimal effect on the surrounding environment and the amenities of occupiers of nearby properties.

#### **Other matters**

11. I accept that an alternative design might address my concerns about the effects of the doors on the character and appearance of the area. However, as any door would continue to be used frequently an alternative would not address the harm caused to the occupiers of No 46.
12. I note that the doorway enables easy access to refuse bins. It is also suggested that the doors provide a means of escape, and could be used for disabled egress if this became a requirement at some future point. However, there is no substantive evidence before me that these additional features and possible benefits could not be achieved in a manner that would be less harmful to the surrounding environment.

#### **Conclusion**

13. For the reasons set out above, the appeal should be dismissed.

*Sarah Manchester*

INSPECTOR