
Appeal Decision

Site visit made on 5 December 2011

by Jacqueline North BSc MSc

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

Decision date: 9 January 2012

Appeal Ref: APP/P4415/A/11/2159082

Canklow Hotel, Canklow Road, Rotherham, S60 2JH

- 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 QFM Group against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2011/0804, dated 26 May 2011, was refused by notice dated 21 July 2011.
 - The development proposed is KFC Restaurant/Drive through A3/A5.
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Decision

1. The appeal is allowed and planning permission is granted for a KFC Restaurant/Drive through at Canklow Hotel, Canklow Road, Rotherham, S60 2JH in accordance with the terms of the application, Ref RB2011/0804, dated 26 May 2011, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of nearby residents having particular regard to a potential increase in traffic and other sources of noise, smell, litter and disturbance.

Reasons

3. The appeal site is an area of vacant land which previously contained the Canklow Hotel, a public house which was demolished following fire damage. The proposed development comprises a single storey restaurant/take away, with 21 dedicated parking spaces and a drive-through lane for motorists to order and collect meals from their cars. It is intended that the unit be occupied by Kentucky Fried Chicken (KFC).
4. The building would be positioned at the northern end of the site with its frontage facing the Canklow Road/Centenary Way junction. Centenary Way is a busy dual carriageway which forms the main arterial route into Rotherham from the south. There is a substantial industrial works across the dual carriageway to the north-west, residential properties to the east and Canklow Woods Primary School to the south-east, accessed off Wood Lane.

Living Conditions

5. The proposed restaurant would be capable of providing seating for up to 70 customers. There would be 19 general purpose car parking spaces, including 2

disabled bays, plus two short-term grill parking bays. In addition, 4 cycle racks would be provided. Servicing of the unit would be by a single HGV delivery a day. The Canklow Hotel provided 32 car parking spaces plus three small spaces for motorcycles.

6. The front of the residential properties at the southern end of Canklow Road lie some 15-20 metres from the appeal site. The customer vehicular entrance would be directly opposite Nos. 311 and 313, with parking facing other properties on Canklow Road.
7. The main source of noise in the area is traffic on Centenary Way and 'low frequency rumbles with intermittent crashes and bangs' from the London Scandinavian works, a large factory on the northern side of Centenary Way. An acoustic assessment was undertaken by the appellant. The background noise was also measured by the Council, which verified the appellant's figures. Acoustic modelling of the potential change in the acoustic environment with the restaurant operating estimated that the noise which would result from the proposal would be below the level of the existing background noise.
8. Although the local planning authority seeks to relate the impact of vehicles attracted to the premises with significantly increased 'maximum' noise levels, this largely ignores the existing noise climate and the limited traffic likely to arise from the use having regard to predicted traffic flows. On this basis I am satisfied that any impact as a result of the proposed development would be negligible and aurally indistinguishable from the existing noise climate.
9. There may be some noise due to car doors slamming, music played in cars or loud conversations from customers. However, the use of acoustic fencing and the distance between the car park and the front of the dwellings on Canklow Road would ensure that such noise would not result in harmful conditions for nearby residents, even on those occasions when there is little or limited background noise from traffic or from the nearby factory.
10. It would also be possible to impose conditions on any grant of permission to control the operation of the use. In this regard, limiting opening hours to 08:00 to 23:00 hours, as suggested by the appellant, would strike an appropriate balance and the closing time would reflect that of the public house which formerly occupied the site.
11. Furthermore, it is intended to install filtration and odour-suppressing equipment and to control the noise of external plant. Indicative details were supplied as part of the appeal. I am satisfied that the installation of a fume extraction system and acoustic control of equipment and machinery would ensure that nearby local residents would not be significantly affected by smells or noise resulting from the operation of the restaurant.
12. As to litter, I appreciate that people sometimes discard packaging and half-eaten food. However, there would be litter bins to serve the restaurant and KFC operate a litter-picking policy which should reduce the likelihood of any nuisance caused by litter dropped by customers.
13. Taking all the above into consideration, the proposal would not result in unacceptable harm to the living conditions of nearby residents and there would be no conflict with saved Policy HG1 of the adopted Rotherham Unitary Development Plan (UDP) in respect of its aims to prevent harm to residential amenity and ensure that development is in keeping with the area in terms of

intensity of use. In addition, it would accord with saved UDP Policy ENV3.7 which seeks to prevent poor environmental amenity due to noise, malodour or other polluting effects and with guidance in Planning Policy Guidance 24: *Planning and Noise* which requires local planning authorities to ensure that development does not cause an unacceptable degree of disturbance.

14. Saved UDP Policy ENV3.1 requires development proposals to have regard to the security of users and their property. I appreciate that the late opening hours and the goods sold at the restaurant may encourage customers to congregate late on a night, and that the Canklow area has experienced anti-social behaviour. However, there is no detailed evidence to indicate that the proposed development would result in a problem due to disorderly behaviour. Furthermore, there is no evidence before me to support claims that the safety of the children at the nearby school would be at risk due to an increase in visitors to the area. The previous building on the site was a public house, open similar hours to the proposed restaurant, and I see no reason to consider that the new restaurant would attract anti-social or criminal behaviour to the area. The proposed use of CCTV may reduce the incidence of such behaviour.

Other Matters

15. Centenary Way was observed to carry up to 1,786 vehicles southbound and 1,135 northbound during the busiest hour of the day. The capacity of the highway exceeds this and there were no significant queues or delays on the highway or at roundabouts. An eight metre wide section of Canklow Road forms a link between Centenary Way and the older, residential part of Canklow Road. Access to the restaurant would be from the older part of Canklow Road, which is subject to a 20mph speed limit and where traffic is calmed by a speed ramp. Traffic flows on Canklow Road are relatively light with a maximum of 300 vehicles an hour at the busiest northern section.
16. The level of traffic attracted by a larger KFC restaurant between Barnsley and Wakefield was surveyed. This indicated that there would be around 80 vehicular movements per hour at the appeal site. It is anticipated that many of these will not be new journeys and that passing traffic will divert to use the restaurant. As such, there would be no noticeable increase in traffic on Centenary Way. The traffic survey indicated that the proposed development would result in 1 additional left turn from Centenary Way to Canklow Road every 2 minutes at the busiest time of day and between 1 additional vehicle every 3-5 minutes at other junctions/directions. Whilst the southern end of Canklow Road is relatively lightly trafficked, with a maximum increase of 1 vehicle inbound and 1 outbound per minute the proposal would result in no material change to traffic conditions or highway safety in the area.
17. The appeal site is accessible by regular and frequent bus services and there are broad footways along Canklow Road which would provide pedestrian access. In addition, Canklow Road is designated an advisory cycle route by the Council and there would be cycle parking facilities available at the restaurant.
18. Taking all the above into consideration, there would be no conflict with saved UDP Policy T6 and Policy EC10.2 of Planning Policy Statement 4: *Planning for Sustainable Economic Growth* which, amongst other things, seek to prevent traffic congestion and ensure that development is accessible by private car, public transport, pedestrians, cyclists and people with disabilities.

19. The new restaurant would be approximately 40 metres from Canklow Woods Primary School. The school holds a Healthy School Certification and provides a nutritionally balanced breakfast and lunch and teaches its pupils the importance of a healthy lifestyle. In addition, Rotherham Metropolitan Borough Council, together with the Local Health Authority, has invested a considerable amount in order to promote the importance of healthy eating to improve the health and well-being of children and adults. There are concerns that the proposed restaurant would undermine these healthy eating initiatives.
20. My attention has been drawn to a High Court decision, R (on the application of Copeland) –v- Tower Hamlets London Borough Council, in respect of a fast food outlet. It is my understanding that this relates to a takeaway near a secondary school where pupils would be able to leave the premises at lunch-time. Whilst I appreciate that some Local Authorities have adopted policies which restrict hot food takeaways near schools or youth facilities, Rotherham Council has no policy on this matter although I accept that the health and well-being of residents is a material consideration.
21. The school is a primary school where children are not usually permitted to leave the premises at mid-day and, given the age of the children, it is unlikely that they would travel to and from school unaccompanied by an adult. The pupils would not be able to eat the food at the proposed restaurant during the school day. Outside of the time they are at school, the children's diet is the responsibility of their parents or guardians. On this basis, I do not accept that the presence of a KFC restaurant/drive through would jeopardise the local healthy-eating initiatives.
22. PPS4 identifies restaurants, takeaways and drive through restaurants as town centre uses. Where such an A3 or A5 use is proposed outside of a town centre a sequential assessment of alternative sites and, in certain circumstances, a test of the impact of the proposal on the town centre are required. The appellant carried out a sequential assessment which demonstrated that there was no other suitable and available site within Rotherham or Wickersley town centres. In addition, whilst the proposal is below the size criteria, the appellant submitted an impact test which indicated that the development would not have an adverse impact on Rotherham town centre or the wider area. As such, there is no conflict with PPS4.

Conditions

23. The Council suggested a number of conditions which I have assessed in the light of national guidance. I have imposed a condition requiring development to be in accordance with the submitted and amended drawings as listed below in order to avoid any doubt over which drawings were considered at appeal and in the interests of proper planning. I have also imposed conditions regarding the submission of details of the external materials and a detailed landscaping scheme in order to ensure the satisfactory appearance of the site.
24. In order to ensure that the proposal is not harmful to the living conditions of nearby residents I have imposed a number of conditions to: restrict the hours of opening; provision of car parking and its drainage; control odour and noise from the restaurant, ensure the submission of details of an acoustic barrier, a scheme of sound insulation; agree arrangements for litter collecting and the storage of waste; restrict the times of deliveries; provision of CCTV cameras, and details of lighting. In order to promote sustainable travel I consider it

necessary to impose a condition requiring a travel plan to be agreed and implemented.

25. The Council suggested additional conditions in respect of drainage and illuminated signage, I consider that these are not necessary as these matters are dealt with through other legislation.

Conclusion

26. For the reasons given above and having regard to all other matters raised, I conclude that the proposal would not harmful to the living conditions of nearby residents. It would comply with the relevant planning policies and accordingly the appeal should be allowed subject to the attached schedule of conditions.

Jacqueline North

Inspector

