



Appeal Decision

Site visit made on 14 December 2021

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2022

Appeal Ref: APP/Z4718/W/21/3271988

92 New North Road, Edgerton, Huddersfield HD1 5QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Nicola Dean for R & N Investments against the decision of Kirklees Metropolitan Council.
 - The application Ref 2020/62/91611/W, dated 23 May 2020, was approved on 1 October 2020 and planning permission was granted subject to conditions.
 - The development permitted is: Change of use from mixed commercial/residential use to fully commercial (B1 Office), demolition of the rear toilet block and associated works within a conservation area.
 - The condition in dispute is No 4 which states that: *Notwithstanding the details on the application form, no activities shall be carried out within the building outside the hours of 0730 to 2000 Mon-Fri, 0900 to 1700 Saturdays, and no activities on Sundays or Bank Holidays.*
 - The reason given for the condition is: *In the interests of ensuring that the proposed use does not give rise to loss of amenity to neighbouring properties arising from noise or disturbance at unsociable hours, and to accord with the aims of Policies LP24(b) and LP52 of the Kirklees Local Plan.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development is for change of use to Class B1. However, following the changes to the Use Classes Order which took effect in August 2021, the development is effectively for a change to use Class E(i), office use.

Background and Main Issue

3. There is an extant permission for the conversion of residential accommodation on the ground and lower ground floors of 92 New North Road (No 92) to B1 office use¹. This permission included a condition restricting hours of activity to 0730 – 1900 Mondays to Fridays, 0900 – 1700 Saturdays and no activities on Sundays and Bank Holidays.
4. The application before me is concerned with the conversion of the remaining two floors of residential accommodation at No 92 to office use. It was anticipated that this would lead to increased activity within the site, and more vehicular trips to and from the location. The permission was also granted with a condition restricting hours of activity, as set out in Condition 4. This was

¹ 2018/92347

imposed to avoid noise and disturbance for occupiers of neighbouring properties at unsociable hours, in line with Policies LP24(b) and LP52 of the Local Plan (LP) which seek to protect residential amenity, and to control noise and light pollution respectively.

5. The appellant seeks to extend the operational hours to between 0700 – 22.30 hrs Mondays – Fridays, 0800 – 1900 hrs on Saturdays and 0900 – 1700 hrs on Sundays and Bank Holidays. The main issue is therefore whether Condition 4 is reasonable and necessary in the interests of the living conditions of occupiers of neighbouring properties.

Reasons

6. Although most of the buildings fronting New North Road appear to be in residential use, the site is about 500 metres from the edge of Huddersfield's compact town centre. Number 92 has been used as commercial premises in the recent past, and as noted above, there is an extant permission for office use on two floors. There is nothing before me to indicate that there is a particular shortage of flatted accommodation of the size and type provided by No 92's upper floors, and as such I see no reason to disagree with the Council that the development would not undermine the town centre's retail function.
7. However, the adjacent 94 New North Road (No 94) is wholly residential. There is also a small single-storey dwelling located in the hardstanding behind No 94, and a lower ground flat with amenity area which directly abuts No 94's parking area. In addition, the Coach House is a small single storey dwelling located at the side of No 92's rear hardstanding. Consequently, notwithstanding that there is a tennis club diagonally opposite No 92 on Cemetery Road, No 92's immediate context appears to me to be residential.
8. The hardstanding behind No 92 would accommodate parking for 12 vehicles. One line of parking bays would be aligned very close to the Coach House's front elevation and entrance. The parking bays at the front of No 92 would be accessed through the gap between Nos 92 and 94. It seems highly likely that use of the parking bays to the front and rear of No 92 would generate noise, light and disturbance to levels over and above those currently experienced by the dwellings in and around the courtyard.
9. The occupiers of Nos 92 and 94 should have a reasonable expectation that in a residential setting, there would be limited commercial activity in their immediate environment. I conclude that the proposals would have an adverse effect on the living conditions of occupiers of Nos 92 and 94. This would be contrary to LP Policies LP24 and LP52, as set out above.
10. In order to mitigate the anticipated noise and disturbance the Council imposed Condition 4. I appreciate that the Council's internal consultant recommended seven day working and longer operational hours on weekdays. However, officers are entitled to amend suggested conditions as they see fit. The reasons given are concise and reflect the officer's concerns. On the basis of what is before me, I see no reason to disagree. The hours requested by the appellant would be excessive in this context, and would give little relief to nearby residents.
11. Moreover, Policy LP52 of the Local Plan (LP) states that proposals which have the potential to increase pollution from a variety of sources including noise and

light, must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution. There is nothing before me to indicate that there has been any analysis of the impacts of the development with regard to noise or traffic generation in relation to this development, or to explain why seven day working was considered appropriate by the internal consultee.

12. Furthermore, LP Policy LP24 requires that development should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development free buffer zones between housing and employment uses incorporating means of screening where necessary. The plans indicate that there would be no additional separation or buffer between Nos 92 and 94.
13. The tennis club's parking area is further down Cemetery Road. The noise associated with customers manoeuvring vehicles, and entering and exiting the club is generated some distance away. This is not comparable to having vehicles manoeuvring directly next to your dwelling late in the evening, which would be the case for the occupier of the Coach House, and to a lesser extent for the accommodation at No 94.
14. I also give little weight to the argument that movement would tend to be one or two people arriving at a time. There is nothing before me to indicate how this could be controlled. It is also argued that the offices are not capable of accommodating large numbers of people. However, all four floors of a fairly substantial house would be converted to office use, and there would be parking for 15 cars. In any case, small numbers of people arriving and leaving throughout operational hours, is not necessarily less intrusive than larger numbers of people arriving and leaving at set times.
15. The argument is also advanced that COVID requires staggered working hours, to allow for reduced capacity. However, it is also the case that COVID has encouraged more working from home. In any case, it remains to be seen how COVID will affect office working in the long term. I am not satisfied that this is sufficient reason to justify the requested hours in what is a predominantly residential context.
16. I acknowledge that the use of No 92's two floors of flatted accommodation would generate activity and associated noise and disturbance. However, it seems highly likely that the patterns of pedestrian and vehicular movement linked to office use, and the associated noise, would be different. There is nothing before me to lead me to conclude otherwise, and my reasoning in this regard is supported by the categorisation of office and residential uses in different use classes for planning purposes.
17. Condition 4 limits activity to 12.5 hours on weekdays and 8 hours on Saturdays. This seems to me to be very reasonable, particularly as the weekday hours are an hour longer than set out in the condition attached to the extant permission. I have considered whether Condition 4 should be altered to be in line with the extant permission as there is nothing before me to explain why the change of use of the entire building should warrant an additional hour of activity on weekdays. However, notwithstanding that this would be prejudicial to the appellant, I have concluded that one additional hour on weekdays would not make a significant difference to the living conditions of nearby residents.

Heritage Assets

18. Number 92 is a Grade II mid-19th century ashlar stone two-storey building with attic and basement and a hipped slate roof. It is located within a line of similar period buildings, some of which are also listed, fronting New North Road.
19. The heritage statement indicates that the rear ground floor extension, identified as a toilet block by the appellant but as a scullery by the Council's conservation officer, is a late 19th century addition. The fact that this extension was not part of the original building does not negate its potential contribution to appreciating No 92's history. However, the Council accepted that the harm arising from its demolition was outweighed by the public benefits arising from No 92's future viability. In any case, the extension has now been demolished in line with the permission before me.
20. I conclude that the significance of No 92 arises from its intact historic fabric and distinctive period detailing, and its individual contribution to the architectural coherence and consistency of the New North Road frontage.
21. There is limited information before me with regard to the Greenhead Park Conservation Area (GPCA). On the basis of my observations, I conclude that its significance arises from the high quality period buildings and the underlying building pattern.
22. I see no reason why the development would fail to preserve No 92, or fail to preserve or enhance the character or appearance of the GPCA. As such, the proposals would not be contrary to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

23. The Council has given permission for the development with a condition limiting hours of activity. This finds a balance between the existing residential uses at Nos 92 and 94 and the office conversion. I conclude that this condition is both reasonable and necessary. The appeal is dismissed.

A Edgington

INSPECTOR