



Appeal Decisions

Site visit made on 18 March 2025

by **R Gee BA (Hons) Dip TP PGCert UD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 April 2025

Appeal A Ref: APP/A2525/W/24/3349098

75 Church Street, Pinchbeck, Spalding, Lincolnshire PE11 3YA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr N Odedra against the decision of South Holland District Council.
 - The application Ref is H14-0223-24.
 - The application sought planning permission for change of use of part of building from builders yard and offices to bathroom showroom (retrospective) without complying with a condition attached to planning permission Ref H14-0440-10, dated 20 July 2010.
 - The condition in dispute is No 3 which states that: The use hereby permitted shall not be open to customers except between the hours of 08:30 to 17:30 Monday to Saturday and not at all on Sundays or Bank Holidays without the express written consent of the Local Planning Authority.
 - The reason given for the condition is: In the interests of the amenity of local residents.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence indicates that the appeal property has a lawful use for Class E (a) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020¹. Nevertheless, the proposal before me is to vary the opening hours of use of the premises as a bathroom showroom. Accordingly, I have dealt with the appeal on this basis.
3. My attention has been drawn to an earlier dismissed appeal² relating to the property. The information before me indicates that the proposal related to a different description of development. In any event, I have reached my own conclusions in relation to the evidence before me.
4. The appeal site lies within a conservation area wherein I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
5. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and updated on 7 February 2025. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters,

¹ Council reference H14-0221-24

² APP/A2525/W/23/3316411

and I am satisfied that no party's interests would be prejudiced by my taking this approach.

Background and Main Issues

6. A change of use of part of the building from builders yard and offices to bathroom showroom was approved under planning application H14-004-10. Condition 3 of that permission restricts the opening hours of the premises to between 08:30 and 17:30 hours Monday to Saturday and not at all on Sundays and Bank Holidays. The appellant seeks to extend the opening hours to between 07:00 and 22:00 hours Monday to Sunday.
7. The main issues are:
 - i) the effect of the proposed variation of opening hours on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance; and
 - ii) the effect of the proposal upon highway safety.

Reasons

Living conditions

8. The appeal property comprises a single storey detached building set back from the highway behind a deep area of hardstanding, which is understood to be used for vehicular parking.
9. A vacant public house lies opposite the appeal site, at the junction of Church Street with Knight Street, and a number of residential dwellings surround the site. No 77 is a two-storey residential property that directly abuts the appeal site. To its front elevation is a large bay window, proximate to the appeal site entrance. I observed several ground and first floor windows to its side and rear elevations, located close to the shared boundary. These windows are proximate to the front elevation of the appeal building, visible above the existing low boundary fence, and the area of hardstanding. To the south lies No 73, a residential property, which is set back from the highway on a similar alignment to the appeal building.
10. The proposed extension of customer opening hours would introduce early morning and late evening commercial activity within an area characterised by residential properties. Although Church Street is an arterial route through Pinchbeck it is probable that traffic flows along the road, and associated traffic noise at these times would be lower than during the daytime.
11. Given the proximity of neighbouring dwellings customer comings and goings have the potential to result in noise and disturbance to neighbouring occupiers. This could include conversations as they enter and leave the premises and from vehicle movements, along with doors shutting, and engines starting. Whilst not all patrons would travel to the premises by car, which would minimise the amount of noise and disturbance from vehicles, I consider it probable that a number of customers would drive. Furthermore, staff leaving the premises may lead to further noise after the proposed closing hours.
12. Noises generated by patrons are more likely to be audible and cause disturbance during the early morning and late evening when there are generally less activities

and comings and goings than during the day and when ambient noise levels will be lower. Furthermore, the proposal seeks to extend the hours of opening at a time when many residents would be at home, may have children sleeping, and would have a reasonable expectation of peace and quiet in their homes. This may also be more apparent during summer months when windows and doors could reasonably be expected to be open.

13. While the absence of an objection from the Council's Environmental Protection officer is noted, for the reasons stated, I find the proposal would harmfully diminish the living conditions of neighbouring occupiers by reason of noise and disturbance.
14. The appellant has drawn my attention to a nearby convenience store and public house. However, the details of these developments, specifically their status with regard to planning permission and whether they are subject to any controls regarding opening hours, activities or noise mitigation are not before me. In any case, the presence of these premises does not justify the harm to the living conditions of neighbouring occupiers that I have found from the specific proposal before me, and its specific relationship with surrounding residential properties.
15. For the reasons given above, I conclude that the proposal to vary the opening hours of the premises would materially harm the living conditions of neighbouring occupiers with particular regard to noise and disturbance. As such, the proposal would conflict with relevant parts of Policies 2 and 3 of the South East Lincolnshire Local Plan 2019 (LP) in respect of the impact of development on neighbouring land uses. It would also conflict with the Framework which highlights the importance of developments avoiding adverse impacts on quality of life.

Highway safety

16. Church Street is a principal route through the settlement. Although parking spaces are not demarcated, it is understood that the hardstanding to the front of the appeal building, is used for vehicular parking. A pelican crossing is located nearby, with associated zig zag markings on the carriageway extending across the frontage of the appeal site. A bus stop is located on the opposite side of the road from the appeal site. I also observed a parking bay capable of providing on-street parking for several vehicles close to the bus stop.
17. The extended opening hours would be unlikely to see an increase in the number of patrons at any one time. Furthermore, the proposal does not seek to extend the floorspace of the premises. Having regard to the parameters of the appeal scheme, there is no compelling evidence before me to substantiate concerns regarding pedestrian and highway conflict.
18. For the reasons stated above, the proposal would not result in material harm to pedestrian and highway safety. Accordingly, the proposal would comply with Policies 2 and 3 of the LP, which amongst other things, supports development proposal where access and vehicle generation levels are met.
19. The Council has cited Policy 36 of the LP in their statement of case. However, I do not find this policy to be determinative to this main issue as this focuses upon parking provision.

Other Matters

20. In their statement of case the Council refers to Policy 27 of the LP in terms of the acceptability of the proposal in terms of retail provision. However, the merits of the use do not form part of the appeal before me. Furthermore, the appellant submits that the appeal property could be used for a variety of retail uses, and that Class E uses are often located in small villages such as this, and that the extended hours would serve the local community and reduce the need for local residents to travel to larger settlements by car for services. Be that as it may, such issues do not form part of the appeal proposal before me.
21. I recognise that the proposal would have economic benefits as it would increase the potential business to the site. Nonetheless, the benefits are outweighed in this instance by the harm to the living conditions of neighbouring occupiers.
22. The Pinchbeck Conservation Area (CA) encompasses the appeal site. The existing property is of modern materials and a utilitarian design incorporating a flat roof. Its overall form and appearance are at odds with the historic character of the CA, and thus fails to make a positive contribution to the heritage asset. The nature of the proposal leads me to the view that the significance of the CA would be preserved.
23. I have had special regard to whether the settings of nearby listed buildings would be preserved, notably the Grade II listed Pinchbeck Hall, located to the west of the appeal site and the Grade I listed Church of St Mary to the south. However, the location of the appeal scheme and the nature of the proposals relative to these listed buildings leads me to the view that their settings would be preserved.
24. Interested parties have raised a number of concerns. However, as I am dismissing the appeal it is not necessary for me to pursue the additional matters raised any further.

Conclusion

25. Although I have found that the proposal would not be harmful to highway safety, it would nevertheless be harmful to the living conditions of neighbouring occupiers by reason of noise and disturbance. It would therefore conflict with the development plan when read as a whole.
26. For the reasons given above, and taking all matters into account, the appeal should be therefore dismissed.

R. Gee

INSPECTOR