Appeal Reference 6008717

Town and Country Planning Act 1990 (as amended).

Address: 82-84 Montague Street, Worthing, BN11 3HF

Local Planning Reference: AWDM/1153/25

Statement of Case of the Local Planning Authority

Rebuttal of Appellants grounds of appeal

This statement is intended to address the appellant's grounds of appeal and elaborate further upon the Council's reasons for refusing planning permission for the appeal proposal, amplifying issues highlighted in the officer's report, and third party representations.

The inspector is advised that the planning application was submitted without any supporting information. The 'Field Test Noise Report' is a new submission with the appeal which brings forward new evidence that the Local Planning Authority considers should not form part of the appeal as it has not been assessed and was not requested in the application process.

The inspector will note the officers report that the original planning application under reference AWDM/0371/25 for the change of use was reported to committee on the 16th July where committee members were not satisfied that the proposed opening times put forward by officers were suitable for that area due to the fact that many people live above the shops and cafes in the area and late night/early morning noise from customers of the arcade would negatively impact upon them. Condition 3 was therefore amended to:

No customer trade or business shall take place on the premises except between 09:00hrs and 23.00hrs on Sunday to Thursday and between 09:00hrs and midnight (23:59hrs) on Friday and Saturday and the premises shall be closed for business outside these hours.

The reason for condition 3 is in the interests of residential amenity in accordance with Policy DM5 and DM22 of the Worthing Local Plan.

Policy DM5 states amongst other things that all new development should not have an unacceptable impact on the occupiers of adjacent properties, particularly of residential dwellings, including an unacceptable increase in noise giving rise in significant adverse impact.

DM22 states amongst other things that development should not contribute to, be put at risk from, or be adversely affected by unacceptable levels of soil, air, water, artificial light or noise pollution or land instability. Where possible development should help to improve local environmental conditions.

The building is located in a pedestrianised precinct with a mix of commercial and increasing residential development some of which is within close proximity to the use above commercial properties on Montague Street and properties in Buckingham Road and Prospect Place to the north and south of the site. Previous noise reports have demonstrated that that the background noise levels in this locality fall below 30dB in the early hours of the morning. There it has been shown that this is a quiet area once the local businesses have closed. With many closing by midnight.

The additional hours would inevitably cause disturbance from customers, lighting, and late-night activity, particularly when ambient noise levels are shown to be low in this pedestrianised area.

The additional hours would mean people entering and exiting the venue at extended hours which would result in noise and disturbance with the potential for anti-social behaviour.

The supporting text for policy DM13 also highlights that the over-concentration of nighttime uses can create significant problems and that it is important to ensure that such development cumulatively does not harm the character and function of a centre, undermine its vitality and viability, or lead to significant problems of crime, disorder and noise that would unacceptably impact on the amenity of those living and working in the area. It points to the need to balance the needs of residents alongside promoting an evening economy and that careful consideration will be given to the appropriateness of certain types of activities

Although the appellants have indicated that the variation of the condition is in line with the Environmental Health Officers comments in relation to AWDM/0371/25, the full comments are within the officers report and it is clear that the officer had concerns about the amenity of occupants of neighbouring residential units through the application process. He indicated within his consultation response that ‘there is no way of knowing what levels of new customers the premises will attract, nor do we have any way of controlling customer behaviour’.

The use has been in operation for less than 6 months, this has not given the appellants or the Local Planning Authority time to assess the likely impacts that the use has on the reason for the hours of the condition.

Furthermore, there has been no change in circumstances since the original permission in terms of policy or any relevant legislation. The hours imposed and reasons are still therefore considered to be appropriate

Other material considerations

The inspector will be aware of the three overarching objectives of economic, social and environmental. It is noted that the NPPF indicates that these objectives should be delivered through the preparation and implementation of plans and the application of policies in the framework, they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

The LPA would contend that the assessment of the appeal proposal has taken place using adopted policies, guidance and the NPPF and that the proposal fails to achieve social or environmental gains by failing to improve the conditions in which people live. The adverse impacts of allowing the appeal would therefore significantly and demonstrably outweigh the benefits, when assessed against policies and the NPPF taken as a whole

Conclusion

The Council contends that the appeal should be dismissed as the development fails to achieve social or environmental gains by failing to improve the conditions in which people live. The adverse impacts of allowing the appeal would therefore significantly and demonstrably outweigh the benefits, when assessed against policies and the NPPF taken as a whole.