

SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE

20th June 2017

Agenda item 6

Application ref. 17/00324/FUL

Former Woodshutts Inn, Lower Ash Road, Kidsgrove

Since the preparation of the main agenda report, a response has been received on behalf of the applicant which is summarised as follows:

- There is inconsistency within the report, in one part it refers to odour arising from the hot food takeaway being 'highly likely' to adversely affect the living conditions of the occupiers of the development, and elsewhere 'likely'.
- Whilst acknowledging earlier in the Key Issues section that the Environmental Health Division (EHD) undertook two site visits and that no material adverse odour impact was perceptible on those visits, the report does not take account of that fact when later assessing the merits of the application.
- It is appreciated that the EHD has undertaken an odour risk assessment and that it has informed their response to this application, but their two site visits must enable a far more useful and accurate assessment of the true odour impact of the takeaway on the nearest new dwellings.
- There is no evidence that a material adverse impact on future occupiers of the new dwellings is highly likely.
- In the event that the Council is still not prepared to support the proposed removal of condition 14 in light of the comments above, consideration should be given to the potential to vary the condition.
- Firstly this is required from a practical perspective and to avoid an automatic breach of the condition. The developer has now confirmed that the three properties that the EHD commented (on site) were most likely to be impacted by the takeaway (plots 6-8) were occupied earlier this month.
- Secondly and mindful of the above, allowing more time for the condition to be satisfied would enable further assessment to establish whether there is a genuine odour issue that needs to be addressed by way of installing an odour abatement system.
- The request is that the condition be varied to allow a period of nine months from the date of the determination of this current application for an odour abatement system to be approved and implemented unless agreed otherwise in writing with the LPA.
- This would enable the developer to research the alternative system the EHD has referred to previously (as an alternative to the system that my client has previously obtained a quotation for) and for the details of that system to be submitted/approved/implemented - and/or for the LPA to consider any submission the developer makes to request written consent that such a system is not required taking account of any evidence obtained in relation to the impact on existing occupiers of the nearest dwellings. Such evidence could for example include asking the occupiers to complete a questionnaire about the odour impact of the takeaway on their living conditions.

Officer Response

It is acknowledged that there is inconsistency within the report regarding the impact odour arising from the hot food takeaway on the living conditions of the occupiers of the development. The Odour Risk Assessment undertaken by EHD concluded that there was a high impact risk of odour nuisance arising and as such it considered that it would be more appropriate to refer to the impact in those terms.

EHD did acknowledge that site visits had been undertaken on two occasions and that some odour was detected on only one of those visits, but not at a level that would constitute a nuisance. EHD advise, however, that on neither occasion was the visit undertaken at the busiest operational time for the hot food takeaway and as such was not fully representative of the odours that may be experienced by residents of the development.

Concern remains that the living conditions of the residents will be unacceptable affected by odours and as such recommendation (a) remains. It will, however, be necessary to amend the wording of the reason for refusal to reflect that there is a high impact risk of odour nuisance (rather than odours are highly likely to adversely affect the living conditions).

In light of the information that some of the units within the development have now been occupied it is necessary to amend the variation of the condition as set out in recommendation (b) as otherwise there would be an immediate breach. The applicant's suggestion that it be varied so that the odour abatement system is provided within 9 months of the date of decision rather than prior to first occupation is considered reasonable and appropriate. This will give the developer the opportunity to commission and install a suitable odour abatement system without the residents having an unreasonably long period over which odour nuisance arises. In addition if the developer is able to provide some 'evidence' of a lack of odour nuisance this may demonstrate, where they haven't been able to in this submission, that there is no need for the condition as the existing odour abatement system at the premises suitably addresses odours.

The recommendations are amended accordingly as follows:

RECOMMENDATIONS

(a) REFUSE the *removal* of condition 14 for the following reason:

In the absence of the provision of a suitable odour abatement system to the kitchen ventilation system of the hot food takeaway adjoining the site on Lower Ash Road there is a high impact risk that odour arising from that premises will adversely affect the living conditions of the occupiers of the development. It is therefore considered that if the condition is removed as proposed the residential development is not appropriate for this location, contrary to the aims and objectives of the National Planning Policy Framework;

and

(b) APPROVE the *variation* of the condition in question so that it now reads:

Within 9 months of the date of this decision an odour abatement system to the kitchen ventilation system of the hot food takeaway adjoining the site on Lower Ash Road *shall have been* installed in accordance with full and precise details that have been submitted to and approved in writing by the Local Planning Authority beforehand. The system shall be designed to operate in full accordance with the approved details before any of the dwellings hereby permitted are occupied and shall thereafter be maintained in accordance with the approved details. The kitchen ventilation system shall be regularly maintained to ensure its continued operation and the cooking process shall cease to operate if at any time the extraction equipment