
Appeal Decision

Site visit made on 25 July 2016

by Rory Cridland LLB (Hons)

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

Decision date: 21 September 2016

Appeal Ref: APP/H1705/W/16/3149737

10 Winchester Street, Overton, Basingstoke RG25 3HS

- 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 Third State Pizza Company Ltd against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 15/04215/FUL, dated 26 November 2015, was refused by notice dated 29 March 2016.
 - The development proposed is change of use from a bank (Class A2) to a hot food takeaway (Class A5); installation of extraction/ventilation and other minor external alterations.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a bank (Class A2) to a hot food takeaway (Class A5); installation of extraction/ventilation and other minor external alterations at 10 Winchester Street, Overton, Basingstoke RG25 3HS in accordance with the terms of the application, Ref 15/04215/FUL, dated 26 November 2015, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary matters

3. Since the decision was made the Council has adopted a new Development Plan, the Basingstoke and Deane Local Plan (2011 - 2029) ("LP"). I am required to determine this appeal in accordance with the Development Plan in place at the time and, as such, have done so with regard to the newly adopted policies.
4. During the course of this appeal the Overton Neighbourhood Development Plan was also adopted and now forms part of the Development Plan for the area. As my decision makes clear below, I have determined this appeal with regard to its provisions.

Main Issues

5. The main issues are the effect of the proposed development on:
 - (i) the character and appearance of the surrounding area, including the Overton Conservation Area ("CA");
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- (ii) the living conditions of occupiers of neighbouring properties with particular regard to noise and disturbance; and
- (iii) highway safety with particular regard to parking.

Reasons

Character and appearance

6. The appeal site is located on Winchester Avenue, within the CA. The existing street consists of a mixture of commercial and residential dwellings, the frontages of which are mostly traditional and reflective of the area's historic character. Nevertheless, there are a number of examples of more modern buildings which, while not discordant, detract from the overall visual aesthetic of the wider CA.
7. The appeal property is such an example, being of more modern red brick construction, a different rhythm of windows and doors and a generally more modern frontage. In the Council's view, the frontage of the unit during the time the bank was operational would have been neutral. However, since its closure the shop front has deteriorated and it currently makes a negative contribution to the street scene and wider conservation area. To either side of the appeal site are residential properties which front onto the road, while opposite are a number of other commercial units including a supermarket, post office, veterinary centre, wine merchants and tearooms. Further along is a tandoori restaurant and takeaway.
8. LP Policy EM10 requires all development proposals to be of high quality which positively contribute to the appearance and use of streets and other public spaces. It also requires proposals to positively contribute to local distinctiveness, the sense of place and the existing street scene. In doing so, proposals should also have due regard to, amongst other things, the history of the surrounding area and the relationship to neighbouring buildings and heritage assets.
9. LP Policy EM11 requires development to conserve or enhance the quality of the borough's heritage assets in a manner appropriate to their significance. Proposals which would affect designated heritage assets will be permitted where, amongst other things, they demonstrate a thorough understanding of the significance, character and setting of conservation areas and achieve a high quality design which is respectful of historic interest and local character.
10. Policy S1 of the newly adopted Overton Neighbourhood Development Plan (ONDP) supports proposals to improve existing shops and/or provide new shops in Winchester Street, subject to their respecting local character while Policy LBE1 requires proposals to demonstrate that they conserve or enhance the character of the built environment and have taken account, amongst other things, the Village Design Statement.
11. The proposal would involve a change of use from Class A2 to a Hot Food Takeaway ("HFT"). The Overton Village Design Statement identifies the site as an example of inappropriate development which should not be repeated. However, the proposed alterations to the shop front are not significant and would result in a frontage which was mostly glazed with the entrance off set to the left. This would replace the existing sections of tiling and grey cladding

- which currently detract from the appearance of the surrounding area and would create a frontage which is more in line with others within the village centre.
12. While I note the Council's concerns that the design of the frontage would not accord with the guidance set out in its Design and Sustainability Supplementary Planning Document ("the SPD"), in view of the small number of alterations proposed, that the proposed design would not appear that dissimilar to the existing building. As such, any alteration to the relationship between the structure and the street scene would be minimal. Likewise, although there would be an increase in the amount of glazed area, it would maintain its vertical emphasis which would avoid creating a blank aspect.
 13. Furthermore, although the SPD suggests that where stallrisers exist they should be retained and where they have been removed from older buildings they should be replaced, in this instance none are present in the existing building and there is no indication that any have previously been removed. Furthermore, the plans show an attempt to give the impression of such features which provides a solid visual base to the building and helps the frontage better integrate with the surrounding buildings and the wider CA.
 14. I do not therefore consider the alterations proposed would alter how this building relates to the neighbouring properties or the wider conservation area. It would not materially impact on the street scene and, as such, would preserve the character and appearance of the CA. While I note the Council's references to other nearby heritage assets, I do not consider these assets, their settings or the wider conservation area would be harmed by the proposal.
 15. Accordingly, I conclude that the character and appearance of the conservation area would be preserved. As such I find no conflict with LP Policies EM10 & EM11 or Policies S1 and LBE1 of the ONDP.

Living Conditions

16. The Council raise concerns regarding the levels of noise which would result from the proposed use of the premises. In support of its position it points to the difference between a bank which operates primarily during the daytime and the proposed HFT which would be busiest during the early evening. However, although the former use operated within normal office hours, there is no planning restriction which would prevent an alternative use within the existing or permitted use classes from opening for similar hours. Furthermore, no robust evidence has been provided which would indicate that the proposed use would be likely to result in any materially increase in noise levels either by virtue of its nature or the plant proposed
17. Moreover, while I note the concerns that the additional vehicle movements associated with the change of use would result in additional noise and disturbance for the occupiers of properties to the rear of the site, in view of the separation distance between those properties and the proposed parking area, any noise or disturbance likely to result would be minimal and insufficient to materially alter their living conditions.
18. Concerns have also been raised regarding the potential for disturbance from noise and odours resulting from the extraction equipment proposed. However, the Council's Environmental Health officer is satisfied that the mitigation measures proposed by the appellant, coupled with conditions restricting the

times of deliveries, would be sufficient to keep any disruption within acceptable levels. I have seen nothing as part of this appeal which would lead me to reach a different conclusion.

19. I also note the Council's concerns regarding the storage of waste. However, while I note that during the officer's visit that area was being used for vehicular parking, there is no robust evidence which would lead me to conclude that this would be the case following the granting of permission for the change of use proposed.
20. Consequently, I find that the proposal would not have an adverse impact on the residential amenities of occupiers of neighbouring properties. As such I find no conflict with LP Policy EM10 which, amongst other things, requires development to respect the amenities of neighbouring properties.

Highway Safety

21. The appeal site is located in the village centre along a main road which benefits from reasonable levels of on-street parking both directly outside the appeal premises and further along the street.
22. The National Planning Policy Framework ("the Framework") advises that development should only be refused on transport grounds where the residual cumulative impacts of development are severe.
23. The proposed development would be located within easy walking distance of the surrounding residential area. However, the Council raises concerns that a lack of parking for delivery drivers and customers would, at peak times, result in unauthorised parking to the front which would be detrimental to highway safety. I find this unlikely in view of the availability of the nearby on-street parking as well as the nearby London Road car park. The majority of customers who arrive to find no spaces available to the front are more likely to seek alternative legal parking in the immediate area rather than resort to parking illegally and jeopardising highway safety. Likewise, in view of the additional parking spaces available to the rear, delivery drivers who arrive to find a lack of parking would be more likely to find alternative parking while waiting for spaces to become free as opposed to illegally parking directly outside the site. In any event, as with customer parking, any illegal parking which might result would be enforceable outside of the planning process.
24. Although I noted during my site visit that parking appeared in high demand, , it was clear that there were spaces available in close proximity to the unit which could accommodate delivery vehicles should the need arise. This accords with the appellant's parking survey. In addition, the proposed HFT would operate during the day and the evening. However, its delivery service is likely to be at its peak in the evening when other commercial premises are closed. As such the demand for parking will have significantly reduced. While I accept that the demand from local residents will have increased, it appears to me that there is sufficient parking capacity to accommodate the requirements of both local residents and the delivery vehicles without either having to resort to illegal parking.
25. While I have had regard the comments of the Council's Highways Development Management Officer, on the whole, the evidence before me does not establish that the change of use proposed would result in unsafe or illegal parking on the

road outside it. Furthermore, while I note that parking restrictions will shortly be brought into force restricting parking in this area to two hours, in view of the fact that most customers of the proposed unit would remain for considerably less time, I do not consider this would alter the conclusions I have reached above.

26. Consequently, I find that there is sufficient parking nearby to accommodate the proposed change of use and as such find no conflict with LP Policies CN9 and EM10. These Policies, amongst other things, require new development to make appropriate provision for parking and ensure that they do not result in inappropriate traffic generation or compromise highway safety.

Other Matters

27. I have noted the comments of nearby residents and the Overton Parish Council. Those which relate to the impact on the CA, living conditions of neighbouring occupiers and parking have been considered when reaching my conclusions on those matters above. Those which relate to need are a matter for the developer. While I acknowledge the concerns regarding an overconcentration of HFT's in the area, I have seen nothing which would lead me to conclude that the concentration of HFT's has reached such levels that the addition of the proposed unit would materially harm the vitality of the local centre.

Conditions

28. I have had regard to the conditions suggested by the Council. In addition to the standard time condition, I regard a condition requiring compliance with the approved plans as necessary in order to provide certainty.
29. Likewise, conditions requiring the proposal to be implemented in accordance with the details submitted in respect of noise and ventilation mitigation measures are necessary in the interest of neighbouring amenity. Similarly, a condition requiring further details of the proposed refuse and recycling facilities is necessary in the interests of residential amenity.
30. I have considered the Council's suggested restriction on opening hours. These generally accord with the opening times of other nearby commercial units and I am satisfied that such a restriction is both reasonable and necessary in view of the nearby residential dwellings.
31. Although I have found that the number of vehicle movements associated with the proposal would not have any material impact on nearby residential premises, when coupled with additional deliveries to the premises, the cumulative impact has the potential to create unacceptable levels of disturbance, particularly later in the evening. As such, I regard the imposition of a condition restricting deliveries to the premises to be reasonable and necessary in order to protect the amenity of neighbouring occupiers. However, the Council's suggested condition appears unduly restrictive, particularly in relation to deliveries in the early evening and on Saturdays. I have therefore amended it accordingly.

Conclusion

32. For the reasons set out above I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No: DB208-LP Block Plan
Drawing No: DC208-BP REV B
Drawing No: DC208-GA-04 REV C
Drawing No: DC208-EL-05 REV B
Drawing No: DC208-EL-06 REV B
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing No: DC208-EL-05 REV B.
- 4) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with the details set out in the appellants 'Supporting Annex B document for Proposed Ventilation System - Revision A' submitted by Delta Bravo Limited dated 01/02/16 '. All equipment installed as part of this condition shall thereafter be operated and maintained in accordance with the submitted details and retained for so long as the use continues.
- 5) Before the use hereby permitted takes place, the scheme of noise mitigation measures to control noise emanating from the site (as set out in the Cole Jarman Plant Noise Assessment (Document reference 16/0113/R1)) shall be implemented. All equipment installed as part of this condition shall thereafter be operated and maintained in accordance with the submitted details and retained for so long as the use continues.
- 6) Deliveries to the premises (excluding activities involving the delivery of cooked pizza's to customers and postal deliveries) shall only take place between 07:30 and 19:30 Monday to Saturday and not at all on Sundays or Bank Holidays.
- 7) The use hereby permitted shall only take place between the following hours:
0900 – 2300 Monday to Saturday
1000 – 2300 on Sundays and Bank Holidays.