
Appeal Decision

Site visit made on 1 November 2016

by Jonathan Bore MRTPI

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

Decision date: 9 November 2016

Appeal Ref: APP/J4423/W/16/3155570
126 Birley Spa Lane, Sheffield S12 4EJ

- 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 Shokat Hayat against the decision of Sheffield City Council.
 - The application Ref 16/01299/FUL, dated 4 April 2016, was refused by notice dated 2 June 2016.
 - The development proposed is described as a change of use from historic A2 (motor spares shop) to A3/A5 hot food/restaurant.
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Decision

1. The appeal is dismissed.

Clarification

2. Some conversion work has already been carried out and the internal layout of the unit is that of a takeaway with a very small ancillary seating area. The proposal includes a flue for fume extraction at the rear. The previous use was a shop for the retailing of motor spares within Class A1. The scheme is therefore the change of use of the premises from a shop within Use Class A1 to a hot food takeaway with ancillary seating area, within Use Class A5, and the erection of a flue to the rear.

Main Issues

3. There are two main issues in this case: firstly, the effect of the proposal on the vitality of the shopping parade, and secondly, the effect of the scheme on the living conditions of residents in the vicinity.

Reasons

The effect of the proposal on the vitality of the shopping parade

4. The unit is roughly in the middle of Birley Spa Local Shopping Centre. In this parade, not including the appeal site, there are already 6 hot food premises including 5 takeaways and a cafe. Even allowing for the small Spar supermarket and the scattering of small shops and other uses, it is clear that takeaways already have a very significant presence in the parade. Most do not open for most of the day, and together they have a negative effect on the character and vitality of the centre. The proposed takeaway would introduce another non-retail unit and make takeaways an even more dominant element of the centre, and it would not open until 15:00 hrs. In consequence, it would
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further reduce the centre's vitality. The scheme would thus conflict with Policy S10 of the Sheffield UDP which, whilst allowing for takeaways, seeks to avoid concentrations of uses which would prejudice the dominance of shops or the principal role as a shopping centre.

The effect of the scheme on the living conditions of residents in the vicinity

5. The scheme involves a flue for the extraction of fumes from the premises. It has already been attached to the back wall of the upper floor, immediately outside the windows of residential flats, as shown on the application drawings. This is a completely inappropriate position, with potential to cause significant harm to residents' living conditions through noise, vibration and fumes, again contrary to Policy S10 of the UDP which aims to avoid such impacts in shopping areas. It is not possible to attach conditions to make it acceptable.
6. A number of objectors have raised concern that the concentration of takeaways in this parade is adversely affecting the character of the locality and the living conditions of people nearby. There are so many takeaways here that there is already considerable potential for noise and disturbance in the evenings from vehicles and pedestrians and from people eating takeaways in the locality. The scheme would increase the likelihood of such noise and disturbance. This adds to the objections to the scheme.

Conclusion

7. The scheme would be unacceptable because it would diminish the vitality of the shopping centre, harm the living conditions of nearby residents, and conflict with Policy S10 of the UDP. I have considered all the other matters raised, including the length of time the unit has been vacant and the fact that refurbishment has been carried out, but they do not alter the balance of my conclusions. For all the above reasons, the appeal is dismissed.

Jonathan Bore

INSPECTOR