

Appeal Decision

Site visit made on 24 April 2017

by R A Exton Dip URP MRTPI

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

Decision date: 12th May 2017

Appeal Ref: APP/X2410/W/17/3168374

Corner of Kernan Drive at junction with Belton Road West, Loughborough LE11 5JF

- 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 Mr Oruc Coban against the decision of Charnwood Borough Council.
 - The application Ref P/16/2552/2, dated 25 November 2016, was refused by notice dated 22 December 2016.
 - The development proposed is described as: *Replacing existing mobile van with a static Portacabin hot food takeaway.*
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Procedural Matter

1. I have used the description of development from the Council's decision notice as this simply describes the proposal.

Decision

2. The appeal is allowed. Planning permission is granted for the siting of Portacabin for use as hot food takeaway at the corner of Kernan Drive at junction with Belton Road West, Loughborough LE11 5JF, in accordance with the terms of the application, Ref: P/16/2552/2, dated 25 November 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin no 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: AMA 236-002 Plan as proposed, AMA 236- 003 Elevations as proposed, AMA 236- 004 End elevation as proposed and AMA 236-005 Elevations as proposed.
 - 3) The premises shall only be open for customers between the following hours:
0730-1500 Mondays – Saturdays.
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- 4) No development shall commence until the colour(s) of the external surfaces of the Portacabin hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Main Issue

3. The main issue is the effect of the proposal on the safe and efficient operation of the highway network in the vicinity of the appeal site.

Reasons

4. At the time of my site visit around 1230 there were four customers waiting, or in the process of being served at the site. Two vehicles associated with these customers were parked over the no waiting restrictions around the junction of Kernan Drive and Belton Road West. There were also vehicles parked over the no waiting restrictions further down Kernan Drive, in connection with other businesses. Over the course of my visit I observed another three customers arrive at and leave the site on foot from one of the nearby businesses, supporting the appellants statement that not all customers arrive by vehicle.
5. I witnessed a frequent flow of vehicles, ranging from cars to larger commercial vehicles, along Belton Road West and in to and out of Kernan Drive in connection with other businesses located in the vicinity. The small number of vehicles parked in connection with the hot food takeaway linked with the relatively short duration of their stay did not harmfully restrict visibility onto Belton road West or cause congestion or obstruction to road users or pedestrians. Taking into account the cumulative impact of vehicles parked in connection with other businesses, I did not see anything that resulted in the unsafe or unsatisfactory operation of the highway system.
6. I accept that my site visit may not be representative of the longer term effect of the proposal and that levels of use may vary. However, the Council's evidence in support of its refusal does not persuade me that levels of use, and consequent effect, are significantly different from that which I observed. The Council's evidence relates to two days in consecutive months and so is limited given the seven years that both parties state the use has been operational, albeit on an apparently unauthorised basis. The Council's evidence shows a similar, but slightly higher level of use than I observed. There is no evidence to show that this level of use, or that in any longer period, has led to the unsafe or unsatisfactory operation of the highway system either. The record of vehicle collisions submitted by the Council is not dated or timed and so cannot be related to the operation of the hot food takeaway. Consequently it carries limited weight.
7. A number of businesses in the surrounding area responded to the planning application and none have raised concern on grounds of highway safety.
8. The width of pavement in the vicinity of the appeal site is significantly greater than in the surrounding area. The siting of the Portacabin would reduce its width to no less than the surrounding pavements and consequently there would be limited effect on its users.
9. Based on my site visit, the evidence before me and taking into account the increase in trade and cumulative effect that may occur as a result of the proposal, I do not consider that it would be likely to cause the unsafe or

unsatisfactory operation of the highway system in the vicinity of the appeal site. The proposal would therefore not be in conflict with the highway safety aims of saved Policy TR/6 i) of the Borough of Charnwood Local Plan adopted 2004 or paragraph 32 the National Planning Policy Framework.

Other matters

10. The requirement for and likelihood of obtaining a Highway Licence is a separate matter to this appeal. The appellant will be aware from the appeal correspondence of the steps necessary to pursue this.

Conclusion

11. For the reasons set out above and having regard to all other matters raised the appeal is allowed and planning permission is granted subject to conditions that are necessary in the interests of proper planning, for certainty, to limit the effects to those assessed through this appeal and to ensure the development has a satisfactory appearance.

Richard Exton

INSPECTOR