



Appeal Decision

Site visit made on 14 July 2017

by S Jones MA DipLP

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

Decision date: 06 September 2017

Appeal Ref: APP/W4515/W/17/3173559

2-4 North King Street, North Shields, Tyne and Wear NE30 2EA

- 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 Jaghid Singh against the decision of North Tyneside Metropolitan Borough Council.
 - The application Ref 16/01322/FUL, dated 8 August 2016, was refused by notice dated 12 October 2016.
 - The development proposed is change of use of papershop to a hot food takeaway.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of refusing planning permission the Council stated that policy DM3.7 was an emerging policy from the North Tyneside Local Plan. It was subsequently modified in accordance with the Inspectors Report produced after the North Tyneside Local Plan Examination. That part of the policy referring to the proximity of the proposed development to Northumberland Park no longer applies because it was removed, and consequently that part of the reasons for refusal no longer applies to my consideration of this appeal. Moreover the reference to "more than 10% of the Year 6 pupils are classed as obese" has been changed to "15% of the Year 6 pupils or 10% of the reception pupils are classified as very overweight". The amended form of Policy DM3.7 has now been incorporated into the North Tyneside Local Plan which was adopted on 20 July 2017 superceding all previous plan policies. Despite the changes to policy DM3.7 occurring during the appeal process, I am satisfied that the appellant was sent a copy and made aware of this in the Councils statement and that no prejudice arises to any party.
3. Consequently while the appellant questions the weight to be attached to Policy DM3.7 and the process that led to it being in the Local Plan, it is now part of the development plan and I am required to determine the appeal in that context. The appellant also asserts that Local Plan policies are not consistent with the Written Ministerial Statement of 23 March 2011, the 2012 National Planning Policy Framework policies and the Planning Practice Guidance and that public consultation was not properly undertaken during the Local Plan process. However I have no evidence before me to suggest otherwise, and the Plan is now in force.

Main Issue

4. The main issue is whether the proposed development would harm the health of residents in the area by permitting a hot food takeaway in the locality

Reasons

5. The site is in an urban area of residences mixed with shops and small businesses. The current use is a newspaper and convenience store.
6. In the context of policy DM3.7 it is acknowledged that the appeal premises lies outside the town centre and the proposal would not result in a clustering of hot food takeaways in the vicinity because as illustrated on the map supplied by the appellant, the nearest two are several streets away, and others are a further distance still. Also there are no other takeaways in the terraces at North King Street. The Council's Officer's Report indicates that there would be no detrimental impact from the development on the living conditions of local residents.
7. The current use includes the availability of takeaway snack foods that could also be classed as unhealthy, as the appellant points out. However, it does provide a wider range of foodstuffs than just those, whereas the proposed fish and chip shop would remove those alternatives and be limited to food high in fat. I note the appellant's view that there is limited data regarding the link between hot food takeaways and childhood obesity, and the submission of some articles about it. However, the need to improve residents health is not disputed, and I consider that education about healthy eating is one strategy among others. It is noted that foods high in sugar can also harm health, but food high in fat provided through hot food takeaways is a significant health issue to be considered as part of North Tyneside's strategic approach to countering obesity because, as the Council points out, obesity is a principal risk factor for the main causes of ill health, disability and premature death in the UK.
8. In this case, the hot food takeaway would be located in the Tynemouth Ward where the obesity levels for Year 6 pupils are stated by the Council to be 20% according to Public Health England National Child Measurement Programme Data 2011/12-2013/14. These criteria were used to inform Policy DM3.7 which states that hot food takeaway use should be prevented in such locations as part of the Council's health and wellbeing strategies. The bakery opposite also already supplies takeaway baked goods, and I consider that a change of use to a hot food takeaway would mean that local food choices would consequently be restricted to high sugar and high fat foods only. This would have an adverse effect on the wellbeing of residents compared to the current situation.
9. I note there is local support for the development in the form of a petition from customers of the current shop, and that there was a permission for a hot food takeaway granted at the adjoining former public house, however this has now expired. I note that with regards to the appeal premises a change to use as a restaurant or café could also be permitted development. However there is nothing to confirm that this would actually occur and in my view, a chip shop is distinguishable from a restaurant based on the evidence that it is takeaway food that is a particular problem. Furthermore, that in itself does not persuade me to find the scheme acceptable on land use planning grounds.

10. It is possible in future that the shop could be relocated into the adjoining premises, bringing that back into use. However this particular proposal does not secure that potential benefit, or any jobs associated with that. Consequently it cannot outweigh any harm arising from the development in the planning balance.
11. Against the above background, I conclude that the development would harm the health of residents in the local area and be in conflict with the health protection and healthy community aims of the National Planning Policy Framework and Policy DM3.7 of the Local Plan because this prevents hot food takeaways in wards with over 15% rates of Year 6 obesity and the rate in Tynemouth ward is 20%. It would also conflict with Policy DM3.7 by restricting food choices in the vicinity to the bakery or the hot food takeaway because this would have an adverse impact on the well-being of local residents in general in terms of health and welfare.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

S Jones

INSPECTOR