
Appeal Decision

Site visit made on 30 October 2017

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 3rd November 2017

Appeal Ref: APP/W4705/W/17/3179853

405 Thornton Road, Thornton, Bradford BD13 3JN

- 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 S Ali against the decision of City of Bradford Metropolitan District Council.
 - The application Ref: 16/09509/FUL, dated 17 October 2016, was refused by notice dated 13 April 2017.
 - The development proposed is the change of use from A1 retail to A5 hot food takeaway.
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Preliminary Matter

1. This proposal is before me to consider afresh. I note that the Appellant relies in his short statement on the views of the Council's planning officer. However I must also take into account the representations made by local residents, and the Appellant has had the opportunity to comment on those representations.

Decision

2. The appeal is dismissed.

Main Issues

3. The main issues in the appeal are:
 - (a) whether the proposed development would lead to an overconcentration of A5 uses such that the vitality and viability of Thornton Local Centre would be undermined;
 - (b) whether the proposed development would lead to an overconcentration of A5 uses such that there would be a harmful effect on the living conditions of neighbouring residents by reason of noise and disturbance.

Reasons

Vitality and viability

4. Thornton local centre has a number of retail outlets, many of which offer the day to day needs of local residents. I particularly noted supermarkets and convenience stores within the centre, as well as more service orientated uses such as hairdressers, hardware stores and solicitors offices. There are a number of existing hot food takeaways and a few premises which seem to operate as cafes/sandwich shops.
5. Within this varied provision of services it seems unlikely to me that a further hot food takeaway would materially affect the vitality and viability of the entire

local centre. The range of other shops present, and their offer, would still be able to cater for local residents. There are sufficient other shops around for the area in general not to be dominated by takeaways if this proposal were to go ahead.

Noise and disturbance

6. However, this particular part of the local centre has a number of hot food takeaways in close proximity to one another. Whilst the centre as a whole may not be affected materially I give weight to the concerns expressed in relation to noise and disturbance. A concentration of such uses can lead to congregations of people in one small area, often late into the evening, with attendant high spirited behaviour and noise. Given the fact that I have received representations from people who live very close to the appeal premises I am not satisfied that it has been demonstrated that this proposal would not add unacceptably to the potential for noise and disturbance. A condition could be imposed to control hours of use, but this would be difficult to enforce if the already existing premises were open later.
7. The Council's Hot Food Takeaway Supplementary Planning Document (SPD) seeks to avoid an overconcentration of such uses if there is the potential for harm to residential amenity. In this case there are nearby residences and in my judgement the residents of those properties are likely to be further inconvenienced by another hot food takeaway in such a small area. This would run counter to Principle 1 of the SPD.
8. I have noted that local residents have suggested that there is no need for another such use as there is enough choice already. However that is not a matter for me if other land use considerations are satisfactorily dealt with. No doubt if the hot food takeaway was not needed by the local population it would not succeed.
9. I have noted that the proposal includes an internal extraction flue arrangement and this would be likely to contain any likelihood of unacceptable nuisance by reason of odour pollution. Whilst neighbours have concerns regarding existing takeaway odours I am satisfied that appropriate conditions could give adequate control of emissions from this property. Other concerns include the possibility of anti-social behaviour, rodent infestations and littering. I sympathise with residents who are affected by such matters, and as is pointed out in the SPD the activity associated with 'hotspots' are exacerbated when uses are concentrated together.
10. To sum up on this issue it is my judgement that there would be an unacceptable risk to the living conditions of nearby residents by reason of noise and disturbance. In addition to conflict with the SPD there would also be conflict with Policy UR3 of the Unitary Development Plan (UDP) which seeks to ensure that development does not have an adverse effect on the occupants of adjoining land.

Other Matters

11. I am aware that the Council's professional officers recommended that planning permission be granted for this proposal. However this case turns on matters of judgement. I consider that the likelihood of harm to the living conditions of near neighbours by the concentration of A5 uses is the most important factor in

this case and leads to conflict with the development plan and the SPD. It is sufficient to outweigh the matters in favour of the proposal (including potential job creation) and the fact that there would be no harm to the overall vitality and viability of the local centre.

Overall Conclusion

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

Philip Major

INSPECTOR