
Appeal Decision

Site visit made on 16 October 2017

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 4th December 2017

Appeal Ref: APP/U2615/W/17/3179693

Grill and Grind, 2 Clearance House, Hemsby, Great Yarmouth, Norfolk NR29 4HS

- 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 Lance Lewis against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/17/0313/CU, dated 4 May 2017, was refused by notice dated 21 June 2017.
 - The development is the change of use from A1 retail to A5 hot food takeaway.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from A1 retail to A5 hot food takeaway at Grill and Grind, 2 Clearance House, Hemsby, Great Yarmouth, Norfolk NR29 4HS in accordance with the terms of the application, Ref 06/17/0313/CU, dated 4 May 2017, subject to the following condition.

The premises shall only be open for customers between the following hours:

0900 - 1800 Mondays - Fridays

0900 - 2000 Saturdays, Sundays and bank/public holidays

Preliminary Matter

2. At the time of my visit the change of use had been carried out and the unit is in A5 (hot food take-away) use.

Main Issue

3. The main issue is the effect of the development on the viability and vitality of the shopping frontage.

Reasons

4. The appeal site forms part of Clearance House, which is a large single storey building located within the town centre. Hemsby is a seaside resort that offers a wide range of facilities for visitors and holiday makers. The town centre is a mixture of both retail and non-retail uses such as shops, food and drink establishments, amusement arcades and other leisure uses. The appeal site also lies very close to the beach and public car parks.
5. The site is at the southern end of the unit and provides hot food to be taken away and eaten off the premises. It was previously in A1 (shops) use and the

remainder of Clearance House continues to be in retail use with an indoor market and a 'vaping' shop.

6. Saved Policy SHP15 (A) of the Great Yarmouth Borough-Wide Local Plan 2001 ('the Local Plan') seeks to avoid an overconcentration or preponderance of hot food take-aways which would significantly detract from the vitality and viability of a shopping frontage. The Council's concern relates to the dominance of hot food uses within the Beach Road Prime Commercial Holiday Area (BRPCHA) that is undermining the retail offer in the locality. There is no figure within Policy SHP15 specifying when such an overconcentration of A5 uses would occur. Moreover, the Council state that "It is very difficult to pinpoint a tipping point at which it is possible to state that a development would be a step too far in terms of the balance of uses of property within an area".
7. I note the other A3 (restaurants and cafés) and A5 uses in the area, as confirmed by Table 1 of the Council's written statement. However, I am not persuaded by the argument that 75% of businesses within the BRPCHA are not within A1 use and therefore a change of use to A5 at the appeal site must be resisted. Policy SHP15 does not seek to protect the BRPCHA from the loss of A1 units as such. It seeks to avoid an overconcentration of hot food take-away establishments.
8. The Council confirm that there are 11 units in A5 use and a further 3 units in A3 use out of some 45 units in the BRPCHA. Therefore, the majority of units remain outside of A3 and A5 use. Moreover, there are a variety of A1 and other leisure uses surrounding the site, and the change of use of the appeal site would not result in an overconcentration of A5 uses in this part of the BRPCHA. Notwithstanding this, I have not been provided with any substantive evidence that the change of use significantly detracts from the vitality and viability of the BRPCHA.
9. On this basis, I conclude that the proposed development would not harm the viability and vitality of the shopping frontage, and as such there is no conflict with Policy SHP15 (A) of the Local Plan.

Other Matters

10. Concerns have been raised from interested parties that the development would lead to parking and litter problems in the area. I note that Norfolk County Council as local highway authority did not raise an objection to the development. From my visit I see no reason to disagree with that assessment and any illegal parking would be a matter for the relevant enforcement authorities. With regard to litter, a public waste bin is directly outside the site.

Conditions

11. The Council have suggested a number of conditions were I minded to allow the appeal. As the development has already been carried out, there is no requirement to condition its commencement. I shall impose the opening hours the appellant has requested. However, the appellant has also requested that on 'fireworks nights' the opening hours be extended to 2230. However, to allow such a condition would be imprecise as there can be no certainty what constitutes a 'fireworks night' and consequently, how the condition could be enforced. Thus, I am not minded to include 'fireworks nights' within the opening hours.

12. The Council have confirmed that the site has adequate space for bin storage and that a contract for the removal of waste would need to be entered into. As such there is no requirement to condition this particular matter. The site would be inspected by the Council's Environmental Health Officer who can advise whether a wall-mounted fan is necessary for adequate ventilation. The area outside the site is rather small and placing chairs here would inhibit access to the unit. Moreover, the majority of land to the front of the site is public pavement and does not form part of the application site. The Council have not provided any reasons for imposing conditions to control these matters and I do not find such restrictions necessary.

Conclusion

13. For the reasons given above, and having regard to the development plan when read as a whole, I conclude that the appeal should be allowed.

Graham Wyatt

INSPECTOR