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## Appeal Decision

Site visit made on 28 November 2017

**by Amanda Blicq BSc (Hons) MA CMLI**

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

**Decision date: 19 December 2017**

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**Appeal Ref: APP/Y0435/W/17/3180590**

**1 Station Road, Woburn Sands MK17 8RR**

- 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 DPSK Ltd against the decision of Milton Keynes Council.
  - The application Ref 16/03437/FUL, dated 30 November 2016, was refused by notice dated 21 April 2017.
  - The development proposed is change of use from an off licence (Class A1) to a hot food takeaway (Class A5); installation of new extraction/ventilation equipment and external alterations.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Interested parties have brought concerns related to noise and disturbance arising from activity at the development to my attention. Having reviewed the evidence before me I have concluded that it is appropriate to include such concerns in my reasoning.

### Main Issues

3. The main issues are:
  - Whether the proposal would lead to an increased pressure for parking in nearby streets as well as the intensification of the existing access, and if so, whether it would adversely affect highway safety; and,
  - The effect of the development on the living conditions of occupiers of nearby dwellings with particular regard to vehicle movements, noise and other disturbance.

### Reasons

#### *Location*

4. The appeal site is an off-licence occupying a corner site at the end of a parade of largely independent shops and businesses, and separated from them by Russell Street. The development comprises use of the premises for a Domino's pizza outlet which would have a delivery service as well as operating as a hot food takeaway (HFT). The HFT would be open to customers on a daily basis between the hours of 1100 – 2300 hrs.

5. Land use to the immediate north and opposite the site is residential, including a care home. Although there is a shop on the opposing corner on Russell Street, there is flatted accommodation above and I noted at my visit that Russell Street is also primarily residential.
6. The corner plot could be considered as an extension of the existing shopping precinct. However, to the south of the appeal site there are commercial uses on both sides of the road. Furthermore, the Council's SPD<sup>1</sup> shows Russell Street as the boundary between parking zones which reflects the underlying configuration of commercial and residential land uses. An argument has been advanced by interested parties that the site should be considered within a residential, rather than a mixed or commercial context. Having reviewed the evidence and taken account of my own observations, I see no reason to disagree.

### *Highway Safety*

7. The appellant does not dispute that the development would require 11 parking bays according to the SPD. It is proposed that the rear yard would be designated for two staff cars and that provision for customers and delivery drivers could be met from existing on-street capacity.
8. Although it appears that there was a vehicle parked in the yard during the survey work, the layout suggests there is insufficient turning space, particularly if another vehicle was parked. Vehicles reversing across the footway would pose a hazard for pedestrians and would also interrupt the flow of traffic along Station Road, which was relatively busy at my visit (off-peak hours) and which appears to be the main road link between Woburn Sands and Milton Keynes.
9. The appellant argues that use of the yard would not significantly increase compared to its current use. However, there is nothing before me to indicate what the current levels of use are, and the evidence indicates that the yard is at least partly overgrown. As such, I conclude that its current use is limited. The appellant also argues that use of the yard access would be similar to that of a residential access, but as there is nothing to indicate that the site would be likely to be considered for use as a dwelling, I give this argument limited weight.
10. With regard to on-street parking availability, at my visit the parking bays outside the shops on High Street were quickly filled when one became empty. Russell Street and Station Road had parking availability and appeared to be in less demand. However, this is a snapshot in time and I would expect there to be more demand for on street parking at weekends and evenings, as not all the dwellings in the area have off-street parking. This is confirmed by the appellant's parking beat survey which indicates that there is little capacity for additional on-street parking along Russell Street between 1630 – 2000 hrs.
11. Both the appellant and interested parties have submitted survey evidence in respect of existing parking availability. However, each is highly selective with regard to location and the hours of the survey. This limits the weight I give to their conclusions. However, on the basis of my observations and such evidence as is before me, I conclude that the development would be likely to result in additional competition in the immediate vicinity of the site during the day<sup>2</sup>, but

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<sup>1</sup> Parking Standards SPD, adopted January 2016

<sup>2</sup> Stirling Maynard, October 2017

that from late afternoon to at least mid-evening, there would be capacity for the development's parking requirements on High Street and Station Road<sup>3</sup>.

12. The appellant argues that the Russell Street car park, around 180 metres from the site, would have capacity to take up the increased parking demand but there is no evidence before me to indicate that such capacity exists during the day. Furthermore, there is a difference of opinion between the appellant and interested parties as to what would be a reasonable distance to walk to the proposed outlet from a parking bay. The appellant has drawn my attention to an appeal decision where the Inspector concluded that 200 metres is a reasonable distance<sup>4</sup>. However, I am aware that that particular site is very close to the urban centre of Bristol where customer expectations with regard to accessibility and parking are likely to be very different from the case before me. Whilst I do not discount the premise that a 200 metre walk would be reasonable for customers and delivery drivers, nor do I give it particular weight. It would be dependent on a range of factors such as individual mobility, the weather and urgency. In any case, I would expect customers and delivery drivers to prefer to park as near to the outlet as possible, and the car park would be likely to be used as a last resort.
13. I acknowledge that parked vehicles recorded during the beat surveys might have included vehicles associated with the existing off-licence. However, this did not appear to have any customers during my visit and there is nothing before me to quantify its customer or vehicle movements. Furthermore, there is a significant difference between parking requirements of Class A1 and Class A5 uses, with an additional five spaces required for a HFT of this size. Moreover, Class A5 uses tend to be associated with greater frequency of activity and shorter dwell times, compared to retail outlets.
14. The servicing arrangements would require deliveries to be off-loaded from vehicles parked at the kerbside. However, there is nothing before me to suggest that there would be a significant difference between the servicing requirements of the existing use and the HFT, and as such this is a neutral consideration in my reasoning.
15. Although the residential locality would allow some customers to access the site on foot, and there is a bus stop nearby, I consider it unlikely that customers would use public transport to visit the HFT in a small town location. In any case, no evidence is submitted to indicate the frequency of buses or hours of operation. I conclude that the proximity of the bus stop weighs neither for nor against the appeal.
16. In the light of the above, I conclude that during daytime operations future customers would be competing for spaces with those visiting other businesses. This would lead to an increase in on-street parking stress in nearby streets and congestion. Furthermore the development would not provide adequate on-site parking or manoeuvring facilities, all to the detriment of highway safety. This would be contrary to Policies D1(vi), T10 and T15 of the Local Plan<sup>5</sup> (LP) and Policy WS4 of the Neighbourhood Plan<sup>6</sup>.

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<sup>3</sup> Croft Transport Solutions, Highway note and Response to Third Party comments

<sup>4</sup> APP/Z0116/A/12/2176015

<sup>5</sup> Milton Keynes Council, Milton Keynes Local Plan 2001 – 2011, adopted December 2005

<sup>6</sup> Woburn Sands Neighbourhood Plan, July 2014

### *Living conditions*

17. The appellant argues that the traffic generated by the development could be similar to that of the existing use and has provided TRICS<sup>7</sup> survey data which compares traffic movements between HFTs and local shops in support of that argument.
18. However, although the total trip generation figures are comparable, the HFT use has a different trip profile. The data indicates that HFTs have their highest trip frequency<sup>8</sup> between 1200-1400 hrs and 1700 – 2300 hrs. By comparison, vehicle movements are more evenly spread throughout the day for local shops, with significantly fewer movements after 2000 hrs.
19. Furthermore, the TRICS survey data presented is for weekdays only. There is no comparison for Saturday evenings, which the appellant states would be one of the busiest periods, requiring up to ten delivery drivers, or any indication that all the HFTs surveyed have deliveries. Moreover, the periods of peak activity for the HFT do not correspond with the appellant's anticipated peak hours for this development.
20. Surveys of activity undertaken by interested parties at peak hours in other locations in the area have recorded customers and delivery drivers arriving in quick succession. Although I am cautious about drawing conclusions from these activity surveys, the appellant does not appear to disagree with the data collected or argue that these levels of activity differ from those anticipated at the site.
21. As such, I give the projected traffic generation data limited weight and conclude that the development would, at peak times, be likely to generate significantly more traffic movement and activity than the existing off-licence.
22. The appellant's beat survey indicates that there would be parking capacity on Station Road and High Street in the evenings. As these parking areas are significantly closer to the site than the Russell Street car park, I conclude customers and delivery drivers would be likely to park on Station Road and High Street as a first preference. As Station Road is predominantly residential, this increased traffic movement and activity would have the potential to create noise and disturbance for local residents, over and above that currently experienced.
23. I appreciate that the noise and other general disturbance generated by visitors to any Class A5 use are likely to be greater and of a different nature to that of customers frequenting retail units, even those that have long opening hours. However, there is a balance to be struck between what is reasonable and what is excessive. I consider the introduction of a class A5 use in this largely residential location would have a significant adverse effect on the living conditions of nearby residents, particularly those on Station Road and Russell Street. Class A5 uses generally attract a higher turnover of customers than a retail outlet, and at later hours. Noise from the comings and goings of customers and delivery drivers would be particularly noticeable late in the evening when residents have a reasonable expectation of a quieter living environment. Also, customers often remain in the vicinity of the premises once the food has been collected, thus potentially causing further disturbance.

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<sup>7</sup> Trip Rate Information Computer System

<sup>8</sup> In excess of the mid-point of the range

24. I therefore conclude on this issue that the development would have a detrimental effect on the living conditions of occupiers of nearby dwellings with regard to noise and disturbance. This would be contrary to LP Policy D1(i) which states that planning permission will be refused where development would cause undue disturbance and noise, amongst other considerations.

*Other matters*

25. The appellant has drawn my attention to another HFT application in Woburn Sands, but the information before me indicates that not only did that site sit within a more commercial section of High Street, it also had an adjoining and accessible parking area. My attention has also been drawn to appeals for HFTs both within and outside the Council's area. However, I have limited information to enable me to conclude whether those appeals are directly comparable. In any case, each appeal is determined on its merits and consequently I give these other applications and appeals limited weight.
26. The appellant argues that the premises could be used for a late opening convenience store without a change of use permission. However, there are other late opening national chains within walking distance of the site and it is unlikely that this site would be similarly used, particularly given its limited size. Furthermore, as noted above, such a store would be likely to have a different pattern of custom than the proposed Class A5 use.
27. Interested parties have drawn my attention to concerns related to the trees on the site, ventilation and extraction, potential conflict with policies in the emerging plan and light emissions. However, as I have found harm in relation to the main issues it is not necessary for me to consider these issues further.
28. With relation to the Woburn Sands Conservation Area (WSCA), although I appreciate the building dates from the C19, it is not noted as a building of significance in the WSCA appraisal. Furthermore, it has already been significantly altered by the creation of its shop fronts. Although the development would extend one area of glazing, I am satisfied that this would not be sufficiently harmful to fail to preserve either the character or appearance of the WSCA.

**Conclusion**

29. The appellant argues that the development would be consistent with guidance in the National Planning Policy Framework, but there is nothing before me to indicate that I should not give the LP policies full weight.
30. Consequently, for the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be dismissed.

*Amanda Blicq*

INSPECTOR