



Appeal Decision

Site visit made on 4 June 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2019

Appeal Ref: APP/P1940/W/19/3223977

8 Moneyhill Parade, Rickmansworth WD3 7BE

- 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 Senol Tahrán against the decision of Three Rivers District Council.
 - The application Ref 18/2493/FUL, dated 7 December 2018, was refused by notice dated 6 February 2019.
 - The development proposed is described as: 'change of use of ground floor from carpet shop (no longer trading) (A1) to restaurant (A3/A5) with the installation of a kitchen extractor duct to rear of premises'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor from retail (Use Class A1) to restaurant and hot food takeaway (Use Classes A3/A5) with a single storey side extension with a glass roof and installation of extractor duct at 8 Moneyhill Parade, Rickmansworth WD3 7BE, in accordance with the terms of the application, Ref: 18/2493/FUL, dated 7 December 2018, subject to the conditions set out at the end of this decision.

Procedural Matter

2. I have used the description of development as set out on the Council's Decision Notice and on the appeal form, rather than as set out on the application form. This is because it accurately and concisely describes all elements of the proposal before me.

Main Issue

3. The main issue is the effect on highway safety.

Reasons

4. The appeal site is located on the corner of Uxbridge Road and Elm Way and makes up part of a parade of commercial units that front Uxbridge Road. It was last used as a carpet shop and is currently vacant. The site occupies a Local Shopping Centre location and there are other parades of commercial units nearby, including on the opposite side of Uxbridge Road, and several existing restaurants and hot food takeaways are in existence. The proposed use would have opening hours of 1100 to 2300, which I understand would be consistent with other similar establishments in the vicinity. Seating for up to approximately 64 customers would be provided.

5. Whilst the site is centrally located and well served by public transport links, a significant proportion of the customers expected would likely arrive via private car. As the site is positioned adjacent to a range of other commercial establishments however, including several existing restaurants and takeaways, a generous proportion of the proposal's custom would likely emanate from pass-by-traffic, diverted traffic and linked trips, rather than from wholly new trips to the area.
6. The Council's parking standards are set out in Appendix 5 of the Development Management Policies Local Development Document (July 2013) (the DMPLDD). These standards are Use Class specific and based on the extent of floor space and number of employees proposed. A reduction to between 50-75% of the indicative demand-based standard that is set out applies in the urban area that contains the appeal site and would reflect some of the factors covered in the previous paragraph of my reasoning due to the site's central location and proximity to other commercial uses.
7. Whilst I am aware that this latest proposal at the site incorporates a small side extension, I am satisfied that the expectation contained within the appellant's Parking Assessment (November 2017) (the Parking Assessment) that the site should provide between 14 and 21 parking spaces is broadly accurate. This is based on the requirements of Appendix 5 of the DMPLDD and on the site's custom realistically being expected to be associated with A3 restaurant activities, with seating envisaged to occupy much of the floor area, rather than A5 takeaway sales. The number of spaces calculated represents a notable uplift when compared to the relevant standard for A1 retail uses.
8. There is on-street parking provision in place in various locations close to the site. This provision includes a lay-by located outside the appeal site itself (the lay-by) and, on the opposite side of Uxbridge Road, a service road that accommodates parking to both of its sides (the service road area). The parking in both the lay-by and service road area is time-limited. Further unrestricted on-street parking exists in the site's vicinity.
9. From inspection, which was carried out around midday, it was apparent that there was high demand for on-street parking in proximity to the appeal site, which appears to be reflective of the range of services and facilities that are already in place. I observed regular traffic movements in and out of the service road area and noted that both this area and the lay-by were parked at close to full capacity, although the precise extent of parked vehicles varied during my visit. I also noted high levels of demand for on-street parking on Elm Way, Field Way and Mount View. Indeed, only a limited number of spaces were available in these locations. There were however a number of spaces available on Uxbridge Road to the west of the site.
10. My single visit to the site cannot be relied upon in isolation to give an accurate account of the day-to-day car parking situation that avails in the site's locality. In this context I am aware that parking assessments have been carried out to support previous similar proposals at the site. The most recent of these assessments, the Parking Assessment, considers parking stress within approximately 200m of the site. It involved the carrying out of surveys at hourly intervals during evening hours on a Friday and Saturday. It is my understanding that these timings were chosen in the interests of seeking to capture peak demand for on-street parking in the area, also noting that this

would be expected to be the busiest trading period for the proposed use. Consistent with my own daytime observations, the survey work highlighted high levels of parking stress in the lay-by and service road area, with these levels peaking at above 90%.

11. However, the Parking Assessment identified that parking stress across the assessment area, taken as a whole, peaked at 69% during the surveyed periods. This equates to 56 available spaces within an approximate 200m walking distance of the appeal site. A notable proportion of these available spaces were found to exist in Park Way (where single yellow lines deterring daytime parking are in existence) but were also, to a more limited extent, spread across other streets contained within the survey area. Whilst the Parking Assessment covers only a single weekend and my own daytime observations have indicated limited on-street parking availability in several of the residential streets located close to the site, its results appear conceivable and reasonable. For the avoidance of doubt, I am sufficiently satisfied that the Parking Assessment represents a credible and robust piece of work.
12. With respect to the most recent July 2018 appeal decision at the site¹, where a similar scheme and the same Parking Assessment were before the Inspector, it was found that the overall stress levels indicate that the proposal would not exacerbate existing parking pressures in the area as a whole to the extent that it would lead to inconvenient parking to other highway users that could increase the highway safety risk.
13. I note that the Parking Assessment was carried out in excess of 1 year ago. Since this was undertaken, I have been made aware, through third party correspondence, of a number of changes in occupation/new businesses in the locality. These include the change in occupation of a nearby retail unit that has incorporated the introduction of a small restaurant/takeaway element and the re-occupation of a restaurant located elsewhere within the Local Shopping Centre that I understand was not occupied at the point in time the Parking Assessment was carried out. These changes in occupation must however be considered in the context that the makeup and occupation of commercial centres, such as this, can be ever evolving. Indeed, when considered in the context of the commercial centre as a whole, I do not consider that a small number of occupational changes would have a significant effect on car parking stress levels. In addition, with respect to any new restaurant, much of its custom, as in the case of the appeal proposal before me, would likely emanate from pass-by-traffic, diverted traffic and linked trips.
14. The opening of a new school in the locality and a recently granted planning permission related to a nearby care home have also been referenced in third party correspondence. Full details of these matters are not before me however and it has not been clearly evidenced or demonstrated that parking in the site's immediate environs has been materially affected as a result of these schemes/proposals. From the evidence before me, I am satisfied that, since the Parking Assessment was undertaken, significant changes in the makeup of the site's immediate surroundings have not occurred that would hold the potential to heavily influence its findings.

¹ APP/P1940/W/17/3190245

15. I am also aware of an earlier January 2018 appeal decision² where it was found that a similar scheme would cause material harm to highway safety. Indeed, a lack of parking spaces in the immediate vicinity of the site was found to likely lead to pressure for parking elsewhere including upon nearby residential streets. The Parking Assessment did not however make up part of the evidence base for that appeal, which was instead determined in accordance with an earlier assessment carried out in August 2017. This earlier work was undertaken during the school holiday period, which, from the evidence before me, raised doubts about the robustness of its findings. When compared to the results of this earlier assessment work, the Parking Assessment identified lower levels of parking stress across the assessment area taken as a whole.
16. Whilst the Parking Assessment incorporates parking agreements with neighbouring businesses, these would appear to be based on informal arrangements and offer no certainty of long-term parking availability. Furthermore, some of these proposed spaces are not conveniently located with respect to the appeal site. The parking agreements put forward are therefore of limited relevance to my considerations here.
17. I acknowledge that a high number of objections to the proposal have been focussed upon parking and highway safety issues. Instances of inconsiderate/unsafe parking have been reported in circumstances where drivers have not been able to locate a space, including through the Council's own monitoring of the site. I also note that there are concerns that current parking restrictions in the area are not always adhered to by drivers and not satisfactorily enforced. The Council has also referenced recent parking control research that has been carried out with respect to parking problems and the potential implementation of a Controlled Parking Zone in the 'Rickmansworth West' area. Whilst the details provided of this research are limited, it is apparent that the majority of respondents considered that there are problems in the area.
18. However, as discussed above, the proposal would not be likely to attract a high number of wholly new trips to the area. In addition, the number of deliveries that could realistically be expected to be generated by the newly proposed use would not greatly exceed the number of deliveries likely to be generated by a retail use of the premises. I acknowledge that high pressure is evidently already placed upon on-street parking provision at various times of the day and that the sit-down nature of the proposed use would likely require any associated parking to be for a length of time. I am however satisfied that the proposal, which is primarily focussed upon the change of use of a single ground floor unit, would not exacerbate these existing parking pressures to an extent that would be detrimental to safe and free flowing highway movements. The Highway Authority has raised no objections to the proposal, and this is a matter of importance as they are responsible for the safety of road users on the local highway network.
19. For the above reasons, I conclude that the proposal would have an acceptable effect upon highway safety so as not to cause harm. The proposal would accord with Policy CP10 of the Core Strategy (October 2011) (the CS) and with Policy DM13 of the DMPLDD in so far as these policies seek to ensure the

² APP/P1940/W/17/3182102

provision of safe and adequate means of access and the adequate provision of car parking.

20. For the avoidance of doubt, I consider that Policies CP1 (overarching policy on sustainable development) and CP12 (design of development) of the CS are of limited relevance to this main issue of the appeal.

Other Matters

21. The proposal would result in the loss of a retail unit, although this is presently vacant. It was however apparent, from inspection, that a number of A1 uses are in existence within the same parade of units. The retail function of this parade and wider Local Shopping Centre would not be unduly compromised by the proposed change of use. I note that neither has the Council raised objections in this regard. Furthermore, whilst there are already other restaurants in the vicinity of the appeal site, it is not the role of the planning system to restrict competition. The proposed use would be reflective of its surroundings and would occupy a vacant unit that currently offers nothing to the vitality or viability of the area. It has been stated in third party correspondence that the appeal building has been allowed to deteriorate into a state of disrepair. Whilst vacant, I did not observe this to be the case during inspection.
22. The proposed extension would be discreet in form, being set at a single storey in height and covering a limited footprint. It would be respectful of the heights of the existing brick-built boundary treatment and the part of the appeal building that it would be set alongside. Whilst a glass roof is proposed, this would not be expected to lead to any loss of privacy or to undue light pollution. This is because of the roof's low level and narrow extent. Indeed, during construction, I am also content that the privacy of neighbouring occupiers would not be unduly affected. An appropriate licence from the Highway Authority may be required for any building works that abut the highway, but any such requirement would be resolved outside of the planning process.
23. The proposal incorporates a designated storage area for waste and recyclables, which would be directly accessible from Elm Way. This area appears commensurate in size to the business operation it would serve and is of sufficient size to accommodate sizeable bins and/or containers. I note that the gated access arrangements that are proposed are already in place at the site and that the Council has also not raised concerns with respect to the bin storage details being put forward.
24. A restaurant/hot food takeaway use would produce food waste. It is not however evident why this would necessarily lead to pests/vermin at the site if the site is properly managed. There would be various food/hygiene standards to maintain outside of the planning process. Any prospect of litter being generated by the proposed development would largely fall outside of the appellant's control and would not amount to a reason for refusing planning permission. Furthermore, any suggestion that the proposed use would necessarily lead to anti-social behaviour occurring has not been substantiated.
25. With respect to the potential for cooking odours, air pollution or vibrations to emanate from the proposed use, I note that full details of the intended kitchen extraction system have been provided and that no objections have been raised by the Council's Environmental Health Officer. Nor has this Officer raised any

specific requirement for fat traps to be installed. Whilst intended sewerage arrangements have been raised as a concern by a local resident, there is no indication from the statutory undertaker that the drainage infrastructure has insufficient capacity or capability to accommodate the proposed development.

26. It has been raised that the parking spaces in the vicinity of the site have not been specifically designed to cater for disabled patrons. Whilst this would ideally be the case, it is apparent that various other similar uses already operate in the vicinity of the site and that the proposal before me is primarily focussed on the change of use of an existing commercial property. It would not therefore be reasonable to require that parking specifically designed for disabled motorists be provided in this instance.
27. I note that third party concerns have been raised with respect to the distances and routes sometimes required to be negotiated by disabled users of the Local Shopping Centre due to difficulties experienced in finding spaces to park. Whilst I have had regard to the equalities implications and associated duties arising, I have found that the proposal would not exacerbate existing parking pressures to a significant extent. I am therefore content that any disability requirement would not be prejudiced as a result of the proposal before me.
28. Secure cycle parking is illustrated on the proposed ground floor plan, which would take the form of a gated external area fronting Elm Way. This storage area would be accessible and meaningful in size and appears fit for purpose. The proposal before me involves no works to trees. Similarly, any placement of tables/chairs on the pavement is not illustrated on the suite of proposed plans before me. I also note that an applicant for planning permission does not need to be the owner of the application site.
29. For the avoidance of doubt, the proposed development accords with the development plan, and material considerations do not lead me to a decision otherwise.

Conditions

30. The Council has suggested a number of conditions and the appellant has had the opportunity to comment upon these. I have considered the suggested conditions against advice in the National Planning Policy Framework (February 2019) and Planning Practice Guidance. As a result, I have made amendments to some of the Council's suggested conditions for consistency and clarity purposes and have omitted one of them. Pre-commencement conditions have only been applied where agreed to by the appellant and where necessary to guide initial works on site.
31. In the interests of certainty, a condition specifying the approved plans is required. An existing and proposed roof plan (referenced TRDC 001 by the Council) does not appear to present any additional detail when compared to plan NOV/EL/18-005 and is therefore not necessary to include in the schedule of approved plans.
32. In the interests of safeguarding the living conditions of the occupiers of surrounding residential properties with particular regard to noise, a condition is required securing the installation of the kitchen extraction system in accordance with the details/mitigation measures put forward by the appellant. For the same reason, noting that glazing (if not of robust specification) could

potentially promote the omission of operational restaurant noise, a condition is required to secure further details of the glazing to be installed to the side extension. Furthermore, notwithstanding that the appeal site makes up part of a parade of commercial units, a condition restricting the hours of operation is reasonable and necessary in recognition of the residential presence that also exists nearby.

33. In the interests of ensuring that the development would have an appropriate visual impact, a condition is required that secures the use of matching materials in construction. I do not consider that it would be reasonable or necessary to impose a condition related to the lighting arrangements for the refuse/recycling area. The area in question is relatively small and any lighting of it would be anticipated to be discreet and set at a low level. In any event, if any associated light pollution were to be reported in the future this could be investigated (and potentially enforced against) outside of the planning process.
34. As already noted in my reasoning above, the internal layout of the property lends itself to sit-down restaurant custom. From the evidence before me, I do not consider it necessary for specific restrictions to be applied with respect to the extent of A5 hot food takeaway activities that could be carried out as part of the mixed use. I note that neither has the Council raised a request for a condition in this regard.

Conclusion

35. For the reasons set out above, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AUG/JR/17-001; AUG/JR/17-002; NOV/EL/18-004; NOV/EL/18-005; NOV/EL/18-006; NOV/EL/18-007; NOV/EL/18-010.
- 3) Prior to the commencement of development hereby permitted further details of the proposed glazing for the single storey extension, including with respect to resultant noise omission, shall be submitted to and approved in writing by the local planning authority. The glazing shall thereafter be carried out and maintained in accordance with the approved details.
- 4) Prior to the first occupation of the development hereby permitted the noise mitigation measures (with respect to the kitchen extraction system to be installed) as outlined within the noise impact assessment carried out by KP acoustics, dated 12 June 2017, shall be implemented and permanently retained thereafter.

- 5) The use hereby permitted shall not operate other than between the hours of 1100 and 2300 Monday to Sunday, including Bank and Public Holidays.
- 6) Unless specified on the approved plans, the external facing materials to be used for all new works (or for the making good of retained building fabric) shall match, in terms of their colour, texture and profile, those used in the construction of the existing building.