The Planning Inspectorate

Appeal Decision

Site visit made on 10 September 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September.2019

Appeal Ref: APP/F5540/W/19/3232241
481 London Road, Isleworth TW7 4BX

- 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 Johnny Loyal against the decision of the Council of the London Borough of Hounslow.
- The application Ref 00707/481/P11, dated 29 March 2019, was refused by notice dated 7 June 2019.
- The development proposed is change of use from A3 (Restaurant) to A5 (Hot Food takeaway).

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development provided on the planning application form has been replaced by a fuller version on the decision notice and in subsequent appeal documents. I consider that subsequent description to be usefully more comprehensive and I have therefore used it within this decision.

3. The appeal site address on the planning appeal form is given as '281 London Road'. However, from the planning application form, decision notice and other evidence including the submitted location plan it is clear that the appeal relates to 481 London Road and I have proceeded to determine this appeal on that basis.

4. At the time of my visit, the ground floor of the appeal site appeared to be in use as a hot-food takeaway. The planning history indicates that permission has previously been granted for a hot-food takeaway at the site and that this use subsequently changed to a restaurant under the property's permitted development rights. On this basis, planning permission is required to change the use of the premises from a restaurant to a takeaway. I have therefore proceeded to determine this appeal on the basis of the description as set out in the above heading.

Main Issues

5. The main issues in this appeal are the effect of the proposal on:

   - The living conditions of nearby residents with regard to noise and disturbance; and

- The health of the local community.

Reasons

Living Conditions

6. The appeal site consists of a ground floor commercial unit located within a parade of shops. Based on what I have seen and read, the upper floors of this parade include residential uses which are located in close proximity to the appeal site.

7. Whilst there may be a degree of disturbance arising from the use of the appeal site as a restaurant, the comings and goings associated with a takeaway will be of a more transient nature and greater volume. Due to the close knit relationship with residential properties on the upper floors of the parade, the activities associated with the takeaway will lead to greater noise and disturbance of residents of nearby properties to the detriment of living conditions. I am also mindful that such noise and disturbance may take place late in the evening, when noise from traffic to the front of the site may be reduced and when residents may expect a reasonable level of peace and quiet.

8. I saw that there were existing takeaways located within the parade and the appellant emphasises that there is no history of complaints in relation to this site. However, the proposal will introduce a takeaway into this part of the parade in close proximity to residential uses on the upper floors, to the detriment of the living conditions of residents in comparison to the extant situation.

9. In its consideration of the effect on neighbouring properties, the Council Officer's report refers to an unacceptable increase in the concentration of hot-food takeaways and a table is provided showing a number of takeaways in the area. However, the Council has provided no substantive evidence as to why this concentration is unacceptable e.g. through the use of a locally defined threshold. This matter does not therefore weigh against the proposal.

10. Notwithstanding my comments in respect of the concentration of hot-food takeaways in the area, I conclude that the proposal will be harmful to the living conditions of nearby residents as a result of noise and disturbance. The proposal will therefore conflict with the National Planning Policy Framework (the Framework) which seeks to ensure that new development is appropriate for its location taking into account the likely effects on living conditions.

11. In the Officer's report the Council refers to Policy 3.2 of the London Plan (LP), E9 of the Emerging London Plan (ELP) and CC1 of the Hounslow Local Plan (HLP). However, I can find no conflict with these policies on this main issue as they relate to matters of context and character as well as healthy lifestyles, rather than the living conditions of residents.

Healthy Communities

12. Policies 3.2 of the LP and C13 of the HLP seek to improve and promote healthy lifestyles to help reduce health inequalities and ensure that development proposals contribute to the health and well-being of the local community where possible. This reflects the Framework which supports healthy lifestyles, especially where this would address identified local health and well-being needs. However, whilst reference has been made to levels of obesity across

the Borough, there is no substantive evidence before me as to the health inequalities and needs of the local community in this area of the Borough.

13. The Council refers to Policy E9 of the ELP which provides criteria for the location of hot-food takeaways, amongst other things. Policy E9 specifies that proposals containing A5 hot food takeaway uses should not be permitted where these are within 400 metres walking distance of an existing or proposed primary or secondary school. The Council has provided no substantive evidence in respect of the walking distance from the site to schools in the area. Whilst reference has been made locally to the site being within 400m of the Isleworth and Syon School, it has not been confirmed whether this represents the walking distance. There is therefore insufficient evidence to enable me to conclude that the proposal will be in conflict with this element of Policy E9.

14. Whilst the aim of Policy E9 of the ELP in relation to promoting healthy communities is broadly consistent with the Framework, I am mindful that the ELP is still an emerging plan. Therefore, with regard to Paragraph 48 of the Framework, given the stage of preparation of the ELP it is possible that the policy could be amended or deleted as a result of the examination into the overall soundness of the plan. I have also not been made aware of the extent to which there are unresolved objections to this Policy. As a consequence I can afford Policy E9 no more than limited weight as a material consideration in this matter at this time.

15. I am also mindful that the established use of the site as a restaurant could sell a similar range of food to the proposed use. Whilst general reference is made to the nature of food sold from hot food takeaways, the Council has not provided substantive evidence to demonstrate how the proposal will lead to a significant impact on the health of the community compared to the established use of the site.

16. On the basis of the evidence before me, it has not been demonstrated that the proposal will lead to material harm to the health of the local community. The proposal will therefore not conflict with Policy 3.2 of the LP, Policy E9 of the ELP, Policy C13 of the HLP and the Framework with regard to improving health.

Other Matters

17. I note the frustrations expressed by the appellant in relation to the advice from the Council and the decision process leading up to this appeal. However, this is not a matter for this appeal which I have determined on its planning merits.

18. The appellant refers to planning permissions granted for other hot-food takeaways in this parade of shops. However, I do not have full details of the circumstances that led to these developments being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. In any event, I have determined this appeal on its own merits.

19. The appellant refers to this being a prime location for this type of use. However, there is no substantive evidence of there being an unmet need for this service, and in any event this will not outweigh the harm identified previously.

Conclusion

20. Notwithstanding my conclusions with regard to healthy communities, I conclude that the proposal will be harmful to the living conditions of nearby residents with regards to noise and disturbance. The proposal will therefore conflict with the Framework as a whole with regard to ensuring that new development is appropriate for its location and the effective use of land.

21. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR