



Appeal Decision

Site visit made on 5 August 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2019

Appeal Ref: APP/E5330/W/19/3228933

3 Odeon Parade, Well Hall Road, Eltham SE9 6BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Aman Virk of Papa John's (GB) Ltd against the decision of Royal Borough of Greenwich Council.
 - The application Ref: 19/0233/F, dated 18 January 2019, was refused by notice dated 19 March 2019.
 - The development proposed is change of use from Estate Agents (Use Class A2) to a Hot Food Takeaway (Use Class A5) together with minor external alterations comprising a new shopfront (front elevation) and an extract grille, condenser unit and extraction flue.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from Estate Agents (Use Class A2) to a Hot Food Takeaway (Use Class A5) together with minor external alterations comprising a new shopfront (front elevation) and an extract grille, condenser unit and extraction flue at 3 Odeon Parade, Well Hall Road, Eltham SE9 6BZ, in accordance with the terms of the application, Ref: 19/0233/F, dated 18 January 2019 and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 01072-01 Rev. A Location/Block Plan, 01072-02 Ground Floor Existing, 01072-03 Existing Elevations, 01072-10 Rev. A Ground Floor Proposed, 01072-11 Proposed Elevations.
 - 3) The fume extraction and ventilation system shall be implemented in accordance with the proposed Supporting Information on the Proposed Extraction System and Plant (Master June '16).
 - 4) Prior to occupation of the development hereby permitted, there shall have been submitted to and approved in writing by the local planning authority an Acoustic Report. The report shall include: a survey of existing background/ambient sound level; manufacturer's noise specification (sound power/sound pressure level, octave band spectral levels) of proposed plant; the proposed operational hours of the plant; proposed mitigation measures to ensure the existing background sound level will not increase when measured at one metre from the facade of the nearest noise-sensitive premises. In order to achieve this, the plant shall be designed and selected,

or the noise from the plant shall be attenuated, so that it is 10dB below the existing background sound level (LA90 15min). The measurements and assessment shall be made in accordance to the latest British Standard 4142, and shall be submitted to and approved by the local planning authority. The measures as approved shall be implemented prior to occupation of the development and maintained thereafter.

- 5) Prior to occupation of the development there shall have been submitted to and approved in writing by the local planning authority details of a storage area for refuse bins. The storage area as approved shall be implemented prior to occupation of the development and retained thereafter.
- 6) The hours of use of the development hereby approved shall be: 09:00 - 23:00, Monday to Saturday, with all activity to have ceased by 23:00 and all customers and staff to have left the external areas by 23:15; and 10:00 - 23:00 on Sundays and Bank Holidays, with all activity to have ceased by 23:00 and all customers and staff to have left external areas by 23:15.

Main Issue

2. The main issue is the effect of the proposal on the vitality and viability of Well Hall Local Centre.

Reasons

3. The appeal site is a unit in use as an estate agent, located within Odeon Parade, which is part of the Well Hall Local Centre Shopping Frontage (the LCSF), as per Table 10 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (2014) (CS). The parade mainly comprises a range of commercial uses along Tom Coombs Close, at ground floor level, with residential flatted accommodation above. Beyond this, the parade extends south with units in a mix of commercial uses. The site is situated across the road from the Progress Estate Conservation Area, with its garden suburb character, and near the Coronet Cinema Grade II Listed Building. The proposal is for change of use to a hot food takeaway, with external alterations.
4. The LCSF appears fairly vibrant, with most units occupied. It is not disputed that around a sixth of units within it are hot food takeaways, and more than half are in A1 retail use.
5. Policy 4.7 of the London Plan (2016) (LP) requires, amongst other things, that the scale of retail, commercial, culture and leisure development should be related to the size, role and function of a town centre and its catchment. This is echoed by Policy TC7 of the CS which encourages retail and services that are appropriately scaled to serve the needs of their local catchment.
6. Policy TC(a) of the CS requires that at least 50% of the LCSF should be available for A1 retail use. It is not disputed that the amount of linear A1 frontage within the whole of LCSF exceeds 50%. The appeal unit is in non-A1 use and, thus, the proposal would not reduce the proportion of non-A1 units in the LCSF. As such, the proposal would not conflict with Policy TC(a).
7. Policy TC(b) of the CS supports non-retail uses in town centres, subject, amongst other things, to the ground floor retail thresholds set out in Policy TC(a), and avoidance of iv) a break between occupied A1 premises in the local frontage of more than three units. There is a betting shop and hot food

takeaway to one side of the appeal unit, and a printing shop to the other. As such, the site is part of a row of three non-A1 units adjacent to an A1 unit, and this would remain the case under the proposal. As such, the proposal would comply with Policy TC(b).

8. Under Policy TC(c) of the CS, local centres are a preferred location for hot food takeaways, subject, amongst other things, to criteria iii), part of which is compliance with applicable retail frontage policies, and iv) avoidance of excessive clustering or disproportionate level of hot food takeaways within the centre or frontage. The supporting text for TC(c) specifies a maximum of 25% of premises for all food and drink uses within a centre, to safeguard retailing and ensure a reasonable mix of facilities.
9. The proposed development would accord with TC(b), for the reason described above and thus would not conflict with criterion iii) of TC(c). Regarding criterion iv), whilst the appeal site is near a Pizza Hut takeaway, it is separated from the nearest hot food takeaway on its other side by a run of non-A5 units, including a Tesco Express. Moreover, it is not disputed that, as indicated by the appellant's recent land use survey, under the proposal the proportion of A3, A4 and A5 food and drink uses within the LCSF would remain below the 25% threshold.
10. The Council is concerned that the proposal would lead to an over-concentration of non-A1 uses, in particular pizza takeaways, at the northern end of the LCSF. I saw that around approximately just under a third of units in the part of the LCSF north of Kidbrooke Lane, are A3, A4 and A5 food and drink uses. Also, there are three other pizza takeaways in that part of the LCSF. As such, I recognise that there is a larger concentration of such uses in the northern end of the LCSF. Moreover, an alternative new A1 use for the appeal site might draw similar customer numbers as the proposed takeaway.
11. However, other non-A5 uses including the petrol filling station and Tesco Express add to the commercial vibrancy and diversity of the street in the vicinity of the appeal unit. Moreover, the proportion of A1 use would not be reduced within the LCSF overall. The proposal is within the context of a variety of types of takeaway food on offer in the LCSF. Furthermore, the existing pizza takeaways, together with the proposal, indicates popularity of that type of food, and its oversupply is not substantively demonstrated.
12. Taking the above together, I find that the proposal would not result in excessive clustering or a disproportionate level of hot food takeaways. As such, the proposal would not conflict with Policy TC(c) of the CS.
13. The proposal would be within an accessible local centre and contribute to the vibrancy of the takeaway offering within the LCSF, whilst keeping within the CS policy thresholds described above. It would keep the unit in active use and provide footfall for the parade, with potential supplementary business for other units in the vicinity. Taking the above factors together, I find that the proposal would not harm the vitality and viability of the LCSF.
14. In conclusion, I find that the proposal would not be detrimental to the mix of uses available to local residents, and would not have an adverse impact on the retail viability and vitality of the LCSF and neighbourhood parade. As such, the proposal would not conflict with Policies TC(a), TC (b), TC(c) and TC7 of the CS

and Policy 4.7 of the LP. Together the policies seek to ensure that local centres have an adequate balance of uses to serve the needs of their local catchment.

Other Matters

15. No objection is raised regarding impact on the character and appearance of the Progress Estate Conservation Area or the setting of the Coronet Cinema Grade II Listed Building. The proposed changes to the shopfront and rear of the appeal building would be modest and in keeping with the existing parade. The proposal would therefore preserve the character, appearance and setting of designated heritage assets.
16. I acknowledge residents' concerns about pigeon infestation and litter. However, the appellant proposes to seal the unit's windows and doors against pest access, use lockable wheelie bins and a pest control contract. The street in front of the LCSF has litter bin provision and appears to be relatively free of litter. As such, the proposed development would not cause significant harm in these respects. Resident concern about extractor fans and air conditioning units spoiling the view is also noted. However, the proposed condenser unit and extraction system would not be visually intrusive. Therefore, the proposal would not cause significant harm in this regard.
17. I note residents' concerns about increased parking demand in the area. The LCSF appears generally busy, with people accessing it by a number of means, including car, bus and on foot. I saw on my site visit some parking capacity in front of the LCSF on Tom Coombs Close, albeit at a 'snapshot' in time. The site is also accessible to frequent bus services along Well Hall Road, and to Eltham rail station, which is a short walk away. This would provide customers with realistic access to non-car transport options. Moreover, the Council's Transport and Highways team have raised no objection in this regard. These factors, together, lead me to find that the proposal would not result in significant harm in this respect.

Conditions

18. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. They have been broadly found to be reasonable and necessary in the circumstances of this case.
19. I have amended the deadline for submission of the acoustic report in the noise condition from pre-commencement to pre-occupation of the development, as a proportionate way to address the matter of operational noise, taking account of first-floor residential accommodation within the parade.
20. I have added a condition regarding a bin storage area in the interests of certainty, as although the appellant states that they will provide such an area, it is not illustrated on the proposed development plans. In addition, I have made some minor drafting changes to suggested conditions in the interest of precision.
21. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans, in order to provide certainty. Conditions regarding fume extraction, refuse, noise and opening hours are attached to safeguard the living conditions of residents.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

William Cooper

INSPECTOR