
Appeal Decision

Site visit made on 6 January 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2020

Appeal Ref: APP/Q1445/W/19/3234376

Field End, Greenways, Ovingdean, Brighton BN2 7BA

- 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 'Wild Flour Pizza' against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/03966, dated 30 November 2017, was refused by notice dated 31 January 2019.
 - The development proposed is the change of use from dwelling house (C3) to mixed use dwellinghouse and hot food takeaway within the garage including erection of external pizza oven.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwelling house (C3) to mixed use dwellinghouse and hot food takeaway within the garage including erection of external pizza oven at Field End, Greenways, Ovingdean, Brighton BN2 7BA, in accordance with the terms of the application, Ref BH2017/03966, dated 30 November 2017, subject to the conditions set out in the attached Schedule.

Procedural Matter

2. The description of development is taken from the Appeal Form and Decision Notice, as this I regard as a more precise description than that included with the Application Form.
3. An amended pizza oven specification has been submitted with the appeal. The differences to that previously proposed are not significant. I do not regard anyone as being prejudiced by the acceptance of these amended plans with the appeal, considering the issues raised with this proposal.

Main Issues

4. The main issue is the effect of the development on (1) the mix of uses (takeaway and residential) and (2) the living conditions on occupants at the dwelling known as Field End and others in the area.

Reasons

5. The proposal is primarily to retain the pizza takeaway use in what is otherwise a residential curtilage. The use of part of the dwelling as a pizza takeaway has already commenced and has been open to the public to use for some time. I

have, however, considered the proposal based on the submitted details. I have also taken into account the previous appeals which were dismissed for a similar proposal at the property The Hames in the village in coming to my decision.

6. The single storey building that is used as the takeaway is set between a domestic garage/music studio and the house. There is a pedestrian access with some outdoor seating that is linked to the main access off the highway. Parking is stated to be usually accommodated by the layby near the entrance to Field End, although there appears to be some space for parking to the front of the house. The site is within Ovingdean Conservation Area and the house is detached and set within a large curtilage, with allotments to the south.
7. This is a traditional and tranquil residential area with few other commercial or retail uses evident. However, having a small takeaway in a residential setting is not particularly uncommon, even if there are no other shops nearby. Indeed, the support given to the proposal suggests that this is a business which some in the community wants to remain and continue to serve local customers. Furthermore, the business is discreet in that it is positioned within the enclosed boundaries of the dwelling at Field End. As such, I do not regard the introduction of such a small scale takeaway into this residential setting as resulting in an awkward or inappropriate mix of uses.
8. The nearest neighbour to the site would be across the road 'Greenways'. Considering the separation distance, whilst the pizza business would attract some frequent customer visits when open, it is not likely that this would be particularly noticeable or result in significant disturbance. The distance of neighbouring properties from the takeaway building, its outdoor seating area, and the parking and layby areas, means that the use and associated activities would not likely result in undue levels of noise, odour or fumes that could adversely affect the living conditions of neighbours.
9. It is clear that there would be more of a disturbance to the occupiers of Field End. However, the entrance route for pedestrians and the parking at the nearby layby, which is stated to be a common practice for customers, is an arrangement which means that there would be minimal interference for occupiers of Field End. It would, in my view, be unlikely that customers would regularly park to the front of the house given the layby nearby.
10. There would be some noise from customers when waiting to collect their food, but there is no substantive evidence to suggest that this is at a level that would harm the living conditions of those at Field End. Likewise, from the evidence before me, the smoke or the fans/ventilation does not result in significant noise issues, with no complaints so far that I am aware, although the business has already been in operation for some time. I do also note that the occupants of Field End are the parents of the owner and operator of the pizza business and are involved in this business.
11. Overall, I do not conclude that the proposal would result in an awkward mix of uses or have harmful impacts to the living conditions of those living at Field End or other neighbouring properties in the area, from what is a small scale business with opening times limited to only three evenings a week. The proposal is therefore in accordance with policy QD27 of the Brighton & Hove Local Plan. This policy requires development to, amongst other things, avoid material nuisance or loss of amenity liable to be detrimental to human health.

Other Matters

12. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas in the exercise of planning functions. Whilst this is a Conservation Area and a historic village there is no reason why a business such as this would be generally not in keeping with its setting. The business is set within a low profile building behind a high boundary wall and so would not result in any significant visual impact. Any visible aspects related to the business are modest and of a suitable appearance. There would be an increase of activity, but for this site towards the edge of the designated area, which is well enclosed and with sufficient parking available, this would not be detrimental to the character of the Conservation Area. It would therefore preserve the significance of this heritage asset.
13. The pizza business would result in some additional traffic and parking in the area of Field End. However, from the evidence submitted many customers are local and some could potentially walk to the site. I also note that when considering the parking impact there has been no objection from the Council. Considering this aspect, I also conclude that a small scale business open for just three evenings a week would not likely result in parking congestion or highway safety issues. I also have no detailed evidence of highway safety issues that have arisen due to this business being at this location or near the bend in the road. Furthermore, I have no substantive evidence that this business has led to access issues for the adjacent allotments.
14. However, the issue of access should be subject to a Collection & Delivery Management Plan being required and implemented, to mitigate any potential impact in the long term.
15. Comments have been raised in relation to the effect on house values as a result of the pizza takeaway, but I have no substantive evidence to show how this business affects these values.

Conditions

16. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
17. As the development has been completed it is not possible or necessary to impose a three year time limit. However, I have included the plans condition as this provides certainty.
18. There is to be a condition restricting the operating times of the takeaway, which reflects that applied for. This will help limit the potential impact to amenities of neighbours within the village.
19. I have also included the condition relating to the requirement for a Collection and Delivery Management Plan, to ensure that this aspect of the business does not result in harmful impacts to neighbour living conditions. As development has already commenced this should be submitted within three months of this decision.

Conclusion

20. For the reasons set out above, the appeal is allowed subject to the following conditions in the schedule.

S. Rennie

INSPECTOR

SCHEDULE – CONDITIONS

- 1) The development hereby permitted shall be in accordance with the following approved plans: Block Plan; Location Plan; Floor Plan Drawing 01; Pizza Oven Specification Model D120VK;
- 2) The use hereby permitted shall not operate except between the hours of 17:00 and 21:00 Thursday through to Saturdays (inclusive).
- 3) Within three months of the date of this permission a Collection & Delivery Management Plan, which includes details of the how the collection will take place and the frequency of the vehicle movements, shall be submitted to and approved in writing by the Local Planning Authority. All collection, deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved details.