



Appeal Decision

Site visit made on 18 August 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2020

Appeal Ref: APP/W3710/W/20/3248138

Anker Service Station, Weddington Road, Nuneaton CV10 0AD

- 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 Shaan Chaudry against the decision of Nuneaton & Bedworth Borough Council.
 - The application Ref 036513, dated 17 June 2019, was refused by notice dated 11 December 2019.
 - The development proposed is proposed extensions, alterations and change of use from a car wash (Class A1) to food takeaway (Class A3/A5). The proposed first floor over to be used as offices (Class B1 (a)/A2).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Shaan Chaudry against Nuneaton & Bedworth Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. Although not mentioned in the reasons for refusal, interested parties have raised concerns in relation to additional noise and disturbance, and litter. Consequently, I find it appropriate to consider this in my reasoning and have included it as a main issue. I see no reason why this would be prejudicial to the main parties.

Main Issues

4. The main issues are the effect of the development on:
 - The living conditions of occupiers of nearby dwellings on Old Hinckley Road with particular regard to noise, disturbance and residential amenity; and,
 - The health of the local community.

Reasons

Noise, disturbance and residential amenity

5. The development comprises the replacement of a car wash facility adjacent to a small garage and 24/7 service station with convenience store, to a hot food takeaway and offices. The service station is at a busy intersection and at my

- visit there was a constant influx of customers buying petrol and/or snacks or groceries.
6. Policy HFT3 of the SPD¹ which is referred to in Policy HS7 of the Local Plan² (LP) states that environmental amenity is to be taken into account when considering applications for hot food takeaways. Issues can include noise and litter.
 7. There are existing customer parking spaces directly adjacent to the rear garden boundary of 26 Old Hinckley Road (No 26). However, what was formerly the circulation area of the car wash parking next to the boundary would be additional parking spaces. Although the service station has 24 hour opening, an additional facility with early morning and late night opening hours would increase comings and goings during the takeaway's opening hours. There would also be additional delivery and refuse vehicles. The hot food takeaway would also have longer opening hours than the nearby KFC.
 8. The quantum and extent of noise and disturbance generated by the site would increase and would be likely to significantly exceed the current situation. This increase in noise and disturbance would be detrimental to the living conditions of occupiers of No 26, as well as occupiers of other nearby dwellings.
 9. I also acknowledge that hot food takeaways can be associated with additional litter. At my visit I noticed branded litter from KFC in the road, despite the presence of bins at the outlet. Whilst I acknowledge that this is a snapshot in time it suggests that litter is being generated from the existing hot food takeaway and there is nothing to suggest an additional outlet would not generate additional litter. Even if bins are provided, in my experience it is not always the case that they are used, or emptied regularly. This is something that is difficult to control by condition and it can have an adverse effect on the local amenity, and the character and appearance of a neighbourhood.
 10. Consequently, I conclude that the development would have an adverse effect on the living conditions of nearby dwellings with regard to noise and disturbance, as well as litter. This would be detrimental to overall residential amenity. It would also be contrary to the SPD with regard to environmental considerations, as noted above, and Paragraph 127 of the National Planning Policy Framework (the Framework). This requires development to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Health

11. The site would be a short walk from Etone College's main entrance at the corner of Trent Road and a slightly longer walk from Etone School's main entrance on Leicester Road. The existing KFC is visible from the college entrance area and as far as I could see, far closer to the college and the school than similar outlets in the town centre on the other side of the railway line. The SPD sets out that recent research indicates that children attending schools near fast food outlets are more likely to be obese than those whose schools are more inaccessible to such outlets. Nuneaton and Bedworth has some of the highest rates of childhood obesity in the county and the SPD states that the

¹ Planning for a Healthier Area – Hot Food Takeaways

² Nuneaton and Bedworth Borough Council Borough Plan, 2019

objective behind the hot food takeaway policy is to reduce pupil access to unhealthy food.

12. Although Weddington Terrace has the character and appearance of a light industrial estate and has few retail outlets generally expected of a day to day shopping precinct, it is nonetheless designated as a local centre.
13. LP Policy HS7 and the SPD state that hot food takeaways within 400 metres of a school entrance are permitted when the outlet would be within a local centre. As such the development would accord with both LP Policy HS7 and the SPD in this regard.
14. The SPD sets another test, relating to clustering. Although the service station sells sandwiches and food from within a heated cabinet, it is not a hot food takeaway. Consequently, the development would not fail the test in relation to clustering which suggests that two adjacent outlets should be a maximum. Nor is there any evidence before me to indicate that the development would raise the provision of Class A5 to more than 20 per cent within Weddington Terrace.
15. However, the development would fail the third test of the SPD, set out above in relation to residential amenity. It would therefore conflict with LP Policy HS7 which requires compliance with the SPD. I am also mindful that Paragraph 92 of the Framework require decisions to support the delivery of local strategies to improve health, social and cultural well-being. It seems highly likely that the development would attract business from pupils at Etone College and Etone School, and would consequently increase their access to unhealthy food. This is a material consideration.
16. In the light of the above I conclude that that development would be detrimental to the health of the local community. This would be contrary to LP Policy HS7, the SPD and Paragraph 92 of the Framework, outlined above.

Other matters

17. I appreciate that a similar application was permitted in 2013. However, that permission has now expired and this application is subject to assessment against the current development plan and national guidance. I also acknowledge that the officer's report recommends approval, but members are entitled to take a different view.

Conclusion

18. In the light of the above, I conclude that the appeal should be dismissed.

A Blacq

INSPECTOR