



Appeal Decision

Site visit made on 7 July 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2020

Appeal Ref: APP/D0650/W/20/3245293

The Dray, Mullion Close, Runcorn WA7 6AQ

- 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 Navin Soni against the decision of Halton Borough Council.
 - The application Ref 19/00352/COU, dated 3 July 2019, was refused by notice dated 21 November 2019.
 - The development proposed is a change of use from dance/recording studio and sub-division to provide 5 no. commercial units (Use Classes A1, A2, A3 and A5) including internal and external alterations.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above is taken from the planning application form, and it is also consistent with that used on the decision notice and on the appeal form. Some of the material provided by the appellant refers to the proposal being for six commercial units, and indeed the plans originally submitted in July 2019 as part of the application show six units. Amended plans dated 21 August 2019 (Drawing No. 4175-001-PL-100 REV A) were submitted before the application was determined and these show five units as described, although the drawing is still labelled as six units. Nonetheless, it is apparent that the proposal is for five units as described on the application form, and I have determined the appeal in accordance with that description and the amended plans.
3. Apart from the March 2012 Hot Food Takeaway Supplementary Planning Document (the SPD) and Paragraph 91 of the National Planning Policy Framework (the Framework), the decision notice referred only to conflict with Policy BE1 of the April 2005 Halton Unitary Development Plan (the UDP). The Council indicated in correspondence with the appellant on 22 January 2020 and in its appeal statement that it would no longer seek to rely on that saved UDP policy. It is clear from the Council's appeal statement and the SPD, as well as the correspondence between the parties, that Policy CS22 of the April 2013 Halton Core Strategy (the HCS) is most relevant for determining this appeal. As this was brought to the appellant's attention by the Council at the beginning of the appeal process, and they have subsequently had the opportunity to comment on the Council's appeal statement, I do not consider that their interests are prejudiced by my having regard to it in reaching my decision.

Main Issue

4. The main issue is whether the proposed A5 takeaway would be harmful to the health and well-being of local residents, in particular young people.

Reasons

5. 'The Dray' was originally built during the 1970s as a public house with upstairs residential accommodation, and more recently used as a dance and recording studio, with the former living quarters becoming two self-contained apartments. Although the apartments remain in use, the building has not been used as a dance studio for some time and planning permission was granted in 2018 for the use of the premises as six A1 and A2 units along with associated physical works. The proposal now before me seeks permission for the use of the premises as five A1, A2, A3 and A5 units, as well as internal and external physical works to facilitate this. From both parties' evidence I understand that planning permission was granted in April 2020 for a scheme which, while not identical to that now before me, is similar in scope, the most significant difference being the omission of a proposed A5 hot food takeaway unit.
6. The appeal site is located at the north-western edge of the Brookvale residential area. It sits next to a band of playing fields and green spaces separating Brookvale from the Palace Fields area a short distance to the north and west. Several schools lie close by, notably Palace Fields Primary Academy, and Our Lady Mother of the Saviour RC Primary School, both of which are to the west of the appeal site and within 400m 'as the crow flies'.
7. The SPD aims to address the growth of hot food takeaways in the borough, in order to support measures to improve community health and tackle childhood obesity. Policy HFT2 of the SPD indicates that planning permission for hot food takeaways will only be granted where they are located beyond a 400m exclusion zone around any primary or secondary school, sixth form centre, playing field or children's play space. Defined town, district and local centres are exceptions to the 400m exclusion zones, and Policy HFT1 of the SPD sets out additional requirements for these areas in respect of the over-concentration and clustering of hot food takeaways. However, as the appeal site is not within one of the defined centres, the lack of other takeaways in the immediate surrounding area is not a relevant consideration in assessing the proposal's compliance with the SPD requirements.
8. The appellant suggests that the measured distance from schools should be by walking or driving routes which may be longer than the straight-line distance. However, the guidance in the SPD and its map at Appendix 3 are clear that it is the direct distance which is to be taken into account. In any event, the appeal site is considerably less than 400m from the adjoining playing fields and play spaces, and getting from these to the proposed A5 unit would be quick and straightforward for most people. The proposal therefore fails to comply with the requirements of the SPD in terms of its separation from schools and playing fields. That the surrounding area is well-provided with playing fields and other open space is not a reason for disregarding the advice of the SPD.
9. The isolation of many neighbourhoods within Halton from convenience shopping, and the need for commercial and retail investment in the area surrounding the appeal site are undoubtedly genuine concerns. The Council is supportive of the possibility of the use of the appeal site to provide services

and facilities other than a hot food takeaway. The area near the appeal site may be less well-served by hot food takeaways at present than some other parts of Halton, but the intention of the SPD is not to support enhanced access to fast food so this is not an argument which weighs in favour of the proposal. For similar reasons, the growth of home delivery services which have increased the availability of fast food for some people in recent years does not lead me to conclude that the guidance of the SPD should be set aside. There is no evidence before me to indicate that the area's wider socio-economic issues would be addressed by permitting an A5 use at this location. While a café or restaurant could also sell hot food for takeaway this would by definition have to be ancillary in scale to the A3 use, and would be a matter on which the Council could take enforcement action should it consider it appropriate.

10. Although I have not been made aware of any monitoring information in respect of the effectiveness of the SPD since 2012, neither is there substantive evidence to indicate that the problems with community health and childhood obesity which it is intended to help tackle have been resolved either in Halton as a whole or in the area close to the appeal site. The Council has indicated that it expects to review the SPD following the adoption of its Delivery and Allocations Local Plan, which was submitted for examination earlier in 2020. None of the evidence before me indicates that the requirements of the SPD should carry anything other than significant weight in determining this appeal.
11. Consistency in planning decisions is an important consideration, and I have taken account of previous appeal decisions to which the parties have drawn my attention. A 2019 case elsewhere in Halton (APP/D0650/W/19/3222279) provides support for the 'exclusion zone' approach set out in the SPD, while an allowed 2016 appeal relating to a site in Bristol (APP/Z0116/W/16/3145036) demonstrates the different considerations which may come into play within a primary shopping area but which, for reasons I have already described above, are not relevant in this case. My decision, while it is made on the facts and merits of this particular appeal, is nonetheless therefore consistent with the other decisions to which I have been referred.
12. Because of its location close to schools and playing fields the appeal site would not be an appropriate location for a new hot food takeaway, and I conclude that the proposal would be harmful to the health and well-being of local residents, in particular young people. It would therefore conflict with Policy CS22 of the HCS and the guidance within the SPD, which together seek to support healthy lifestyles and environments by, among other things, preventing the development of hot food takeaways in such locations. It would also conflict with Paragraph 91 of the Framework which seeks to enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.

Conclusion

13. For the reasons given above the appeal is dismissed.

M Cryan

Inspector