



Appeal Decision

Site visit made on 25 August 2020

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2020

Appeal Ref: APP/F5540/W/20/3249038
396 Staines Road, Feltham TW14 8BT

- 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 N Khan against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01054/396/P3, dated 24 May 2019, was refused by notice dated 20 September 2019.
 - The development proposed is described as "The proposal is for change of use of the ground floor shop at the front A1 to A5 use and minor alterations to rear storage to create refuse storage. New shop front and signage related to the business".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's first reason for refusal cites policies TC1 and TC2 of the London Borough of Hounslow Local Plan (the Local Plan). Policy TC1 sets out the Council's aspiration to maintain a network of successful town and neighbourhood centres, with reference to specific policies. Policy TC2 is concerned with ensuring the future viability of town centres. However, the site lies within the Bedfont Large Neighbourhood Centre, not a designated town centre. Consequently, policy TC2 does not appear to be directly relevant to the consideration of this appeal. A copy of Policy TC5 has been provided with the appeal questionnaire, which deals specifically with neighbourhood centres and I consider this to be the relevant policy against which the proposal should be assessed. I have sought the views of the main parties in this regard and whilst no response has been received from the Council, the appellant has provided comments. I am therefore satisfied that there would be no prejudice in me considering the appeal in light of policy TC5.
3. Policy 5.17 of the London Plan is referred to within the council's delegated report, in that proposals should not have an adverse impact on the environment by causing odour or visual impact. However, this policy refers to the consideration of proposals for waste management and as such, is not directly relevant to the scheme before me.
4. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 will come into force, amending the Town and Country Planning (Use Classes) Order 1987. These regulations removed the A5 use class, hot food takeaways, meaning such uses now no longer fall within any use class. However, as the application was submitted

prior to the regulations coming into effect, I am required to determine the appeal on the basis of the Use Classes that existed at that time, which is what I have done. In any event, that a hot food takeaway now no longer falls within a use class means that any change of use to this, would require planning permission.

Main Issues

5. The main issues raised are the effect of the proposal on:
- i) the viability of the Bedfont Large Neighbourhood Centre,
 - ii) the health and well-being of the local community, and
 - iii) the living conditions of neighbouring occupiers, with particular regard to noise, disturbance and odour.

Reasons

Viability of centre

6. The appeal site is located within the Bedfont Large Neighbourhood Centre. Policy TC5 seeks to, amongst other things, maintain and improve neighbourhood centres to meet the needs of local communities. To ensure this, development will be expected to ensure that at least 50% of units are in retail use in neighbourhood centres. The appellant asserts that the proposal complies with this requirement and I have no substantive evidence before me to show otherwise. As such, I find that the scheme fulfils this requirement.
7. In addition, policy TC5 requires that where a change of use of A1 retail is proposed, alternative shopping provision within 400 metres (m) or a 5-minute walking distance be demonstrated. The appellant asserts that Feltham town centre lies within 400m, which shows that alternative A1 retail shops are available and close to the appeal site. However, it appeared to me that the Feltham town centre was located in excess of this distance away and no substantive evidence has been provided to convince me otherwise. Additionally, there was a mix of uses within the nearby parades of shops and no evidence has been submitted to show there is a range of alternative shopping provision in the area. Whilst I note the reference to the location of a Tesco Express in the area, this single unit does little to convince me of adequate alternative shopping provision. Accordingly, I find that the scheme would conflict with policy TC5.

Health and well-being

8. Paragraph 91 of the National Planning Policy Framework (the Framework) states that planning decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs. This is reinforced by paragraph 127. Policy 3.2 of the London Plan also sets out that new developments should be designed and managed in ways that improve health and promote healthy lifestyles.
9. The Council contends that the Bedfont Large Neighbourhood Centre has a high number of existing A5 uses i.e. hot food takeaways. The appellant has offered no substantive evidence to dispute this. At my site visit, I observed a number of hot food takeaways within the surrounding area of the appeal site and the

proposal would only add to this number, contributing towards unhealthy eating within the local community. I have had regard to the appellants statement of case and that the premises would serve healthy food options. However, the proposal is for a hot food takeaway use and whilst there may be intentions to sell healthy food, there would be no means to restrict this.

10. I therefore find that without evidence to the contrary that the proposal would have an adverse effect on the health and well-being of the local community, in conflict with policy CI3 of the Local Plan, insofar as it seeks development proposals to contribute to the health and well-being of the local community. There would also be conflict with the Framework and Policy 3.2 of the London Plan.

Living conditions

11. The scheme proposes the construction of an extraction duct to the rear elevation of the property, which would extend from the ground floor and terminate just below the overall height of the building, but marginally above the level of a dormer extension present to the rear roof. Given the presence of a residential use above the ground floor, the ducting would be located, and terminate, in close proximity to windows that are associated with the residential use. As a consequence, there would be significant potential for occupiers of the residential unit to experience an adverse effect from odour. Given its proximity to the windows, there would also be significant potential for noise to be intrusive for residents. I note the appellant has suggested that a planning condition could be imposed in respect of the ducting, but I am not convinced that it would be possible to use a condition to overcome the harm that I have identified and it has not been demonstrated what measures could be secured in such a way so as to ensure there was no harmful effect. The appellant also refers to the presence of A1 and A3 uses with residential uses above however given that these are different uses from that which is proposed, this has little effect in dissuading me from my findings.
12. Given the location of the site within the Bedfont Large Neighbourhood Centre, there are already a number of commercial premises located within the vicinity. As a consequence, there would be an existing degree of disturbance to residents from the comings and goings of patrons using the surrounding premises. I noted that the supermarket opposite the site was also open late into the evening and night, thus there would be a level of disturbance associated with this. There was also a busy road to the frontage of the site. Therefore, a degree of noise and disturbance is to be expected in such an environment. In this context, and in the absence of evidence to the contrary, I am not convinced that a hot food takeaway use would result in a level of effect from general noise, disturbance and level of activity that would be unacceptable.
13. Whilst I find no unacceptable effect resulting from noise, disturbance and level of activity, I find that it has not been sufficiently demonstrated that the extraction ducting to the rear would not adversely affect the living conditions of the occupiers of the residential unit above the ground floor. Accordingly, the proposal would be harmful to the living conditions of neighbouring occupiers, with particular regard to noise and odour. This would conflict with policies EQ4 and EQ5 of the Local Plan, which seek to ensure that development does not

expose users to air pollution and that new plant and machinery does not harm the amenity of neighbouring properties.

Other Matters

14. The appellant has referred to a number of other sites as examples of where retail premises have sought a change of use. However, none of the examples proposed the same use as that which the appeal scheme does. As such, I am unable to draw any useful comparisons between the scheme that is before me and these cited examples.
15. Whilst I note the appellants contention that a hot food takeaway would introduce a more viable business to the premises, it has not been demonstrated that such a use would be the only one that would be viable. The presence of the A1 use referred to by the appellant, near to the site, also does little to convince me that the existing A1 use of the site is not viable. These matters therefore have little bearing on my decision.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR