
Appeal Decision

Site visit made on 17 November 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2021

Appeal Ref: APP/Q3630/W/20/3255006

104 Thorpe Lea Road, Egham TW20 8BN

- 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 A Andersson of Yeoman Homes Limited against the decision of Runnymede Borough Council.
 - The application Ref RU.19/0035, dated 4 January 2019, was refused by notice dated 1 May 2020.
 - The development proposed is change of use from barber shop (Use Class A1) to a hot food take away (Use Class A5).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In September 2020 the Use Classes Order was amended, which removed Class A1, and replaced it with new Class E(a) which covers the display or retail sale of goods, other than hot food. Class A5 was also removed, with hot food takeaways now being identified as sui generis.
3. Subsequent to the determination of the appeal application, the Local Plan has been superseded with the Council adopting the Runnymede 2030 Local Plan (RLP) in July 2020. Policy SH07 as referred to in the Council's decision notice has now been superseded, with the matters now covered by Policies IE14 and EE2.
4. The Council's first reason for refusal makes reference to Paragraph 91 of the National Planning Policy Framework (the Framework). I am however required to consider the application against the development plan, which in this instance is the RLP. I have therefore dealt with the appeal on this basis.

Main Issues

5. The main issues in this appeal are:
 - Whether the proposed development would support healthy lifestyles and access to healthier foods as identified in Paragraph 91 of the Framework, and accord with other development plan policies in relation to retail units; and
 - Whether the proposal would impact on the living conditions of nearby neighbours, in particular with regards to noise and odour.

Reasons

Healthy lifestyles and development plan policy

6. The appeal site does not fall within a defined centre, therefore Policy IE14 of RLP is relevant. This Policy identifies that development proposals which enhance the community function of shops and parades located outside centres defined on the Policies Map will be supported.
7. Paragraph 91 of the Framework identifies that decisions should enable and support healthy lifestyles, especially where this would address identified health and well-being needs. Amongst the examples, are local shops and the access to healthier foods.
8. The proposal would involve the change of use of the appeal site from a shop to a hot food takeaway. Details were submitted with the appeal proposal, stating that the development would seek to serve healthy options, with the appellant identifying that the proposed use would focus on grilled food. In this regard it is suggested by the appellant that the proposal would provide something different from the surrounding units and thereby enhance the community function of the building.
9. It is submitted by the appellant that the provision of this could be secured through a planning condition. However, no wording for such a condition is before me. Furthermore, I note that the description of development seeks permission for a generic hot food takeaway. Therefore, whilst I acknowledge the intentions of the appellant, there is insufficient evidence before me to enable me to conclude that it would be possible to limit the use in such a way.
10. As a consequence, the proposal would therefore result in the provision of a further hot food takeaway within the existing parade of shops, which, due to the resulting concentration of such uses, would fail to enhance the community function of the parade of shops.
11. For the above reasons, I therefore conclude that the proposed development would fail to enhance the community function of the existing parade of shops, and in this regard, is contrary to Policy IE14 of the RLP and Paragraph 91 of the Framework.

Living conditions

12. Policy EE2 of the RLP relates to environmental protection. With regards to noise, proposals resulting in or being subject to external noise impacts above identified levels are expected to implement measures to mitigate and reduce noise impacts to a minimum. Proposals should be integrated effectively with existing uses. Where a development is likely to have a significant adverse effect, the proposal is required to demonstrate that effective mitigation can be secured and implemented prior to completion of that development or a phase of that development.
13. Within the surrounding area there are a number of residential properties. Information is submitted with the appeal with regards to the proposed ventilation and extraction equipment that would be installed. In this regard, I note that the Council's Environmental Health Officer raised concerns about the information submitted and the potential impact on neighbouring properties. However, having reviewed the information, I acknowledge that there are

elements which are not included, but consider that the provision of these additional details could be adequately covered via a suitably worded planning condition.

14. For the above reasons, I therefore conclude that the proposed development would not have a significant effect upon the living conditions of surrounding residents and, in this respect, accords with Policy EE2 of the RLP.

Other Matters

15. I have been referred to another case for a similar proposal in the parade of shops which was refused by the Council, despite a positive recommendation from Officers. Since this case however, I note the development plan policy has now changed and, in any event, I am required to consider the appeal on its own merits.
16. My attention has been drawn by the appellant to the submitted marketing information, which showed there to have been little interest in the property, although I note that at the time of my visit, the unit was occupied. In any event, Policy IE14 identifies that where a proposal does not benefit the local community, marketing evidence is not required.
17. The appellant has submitted that the proposal would support economic growth, although no evidence is before me with regards to the number of employees or the contribution the use would make in this regard. Therefore, without any evidence, I attach little weight to this.

Conclusion

18. Whilst I have concluded that the proposal would not harm the living conditions of neighbouring residents, subject to suitable conditions, I have however found that the proposal would fail to enhance the community function of the existing parade of shops and would, therefore, conflict with the development plan.
19. For the above reasons, and having considered all matters, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR