



Appeal Decision

Site visit made on 4 May 2021

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2021

Appeal Ref: APP/M4320/W/21/3266665
144 College Road, Crosby L23 3DP

- 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 Tony Smith against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2020/01972, dated 24 September 2020, was refused by notice dated 26 November 2020.
 - The development is described as proposed change of use from retail to cafe and hot food take away.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character of the area, the vitality and viability of the local shopping parade and the health and wellbeing of the local community.

Reasons

3. The ground floor of the appeal site currently relates to a retail unit which is located within a short terrace and is part of a larger group of shops.
4. The Council's Local Shopping Parades Survey (2012) identifies that the site is located within a local shopping parade and outlines the extent of the parade. The appellant has not submitted any substantive evidence to persuade me that the local shopping parade defined by the Council is inaccurate.
5. There are not currently any hot food takeaways within the terrace which the appeal site forms part of. Nevertheless, on my site visit I observed that there were four existing hot food takeaways within the local shopping parade. Two of these takeaways are in close proximity to the appeal site¹. Within the parade are also a range of commercial, business and service uses.
6. The Council's development plan policies seek to limit the number of hot food takeaways to reduce the potential problems arising from clustering and over-concentration of hot food takeaways. An unacceptable grouping of takeaways could harm the character of the area, the vitality and viability of a local shopping parade and harm public health. The analysis of whether there is an unacceptable grouping of hot food takeaways should be based upon the defined

¹ Momtaj and College Fryer

local shopping parade rather than simply the terrace which the appeal site forms part of.

7. Based on the evidence presented, the existing number of hot food takeaways is currently above the 5% threshold set out in the Council's Control of Hot Food Takeaways and Betting Shops Supplementary Planning Document (2017) (SPD). The addition of a further hot food takeaway would result in an even greater concentration of this type of use along College Road. When considering the size of the parade, it already contains a relatively large number of hot food takeaways.
8. A proliferation of hot food takeaways can harm the character of the area and undermine the vitality and viability of local parades. The appellant asserts that the proposal would increase the vitality and viability of the area by bringing into use a vacant unit. Nonetheless, on my site visit I observed that the unit was not vacant.
9. The proposed development would result in the loss of a retail space. Given the existing takeaway units, particularly the two in close proximity, the proposal would result in a clustering of takeaways which would adversely affect the overall attractiveness of the parade. The inappropriate clustering would detract from the primary retail function of the parade and further unbalance the mix of uses. Accordingly, the proposed development would result in an unacceptable grouping of similar uses that would cause harm to the character of the area and undermine the vitality and viability of the shopping parade.
10. The appellant contends that the Council does not define a healthy lifestyle or identify local well-being needs and hot food takeaways do not necessarily equate to an unhealthy lifestyle. However, I consider that too many hot food takeaways in an area may encourage unhealthy lifestyle choices for local residents. I understand from the Council's submission that levels of obesity are high within the Borough and the Council is seeking to improve the overall health and well-being of the population.
11. Conversely there is little evidence before me to demonstrate that the proposal would help to improve the overall health and well-being of the local community. Thus, I consider that the proposed development would be an obstacle to healthy eating. The scheme would therefore result in an unacceptable grouping of hot food takeaways which would not promote healthy communities.
12. The appellant considers that the proposal will enhance the services provided within the area, there is a need for the takeaway and the scheme would not impact the remaining shops. These arguments are to some extent anecdotal and are not supported by robust evidence.
13. According to the Council's figures, which I have no reason to doubt, and bearing in mind what I observed on site, the exemptions set out in the SPD do not apply to this case as the vacancy rate of the parade is not above 20%. Furthermore, even if the unit was vacant, there is no evidence that the unit had remained vacant after being actively marketed for a minimum of one year, as required by the SPD.
14. For the reasons given above, the proposal would be harmful to the character of the area, the vitality and viability of the local shopping parade and the health

and wellbeing of the local community. Consequently, it would conflict with Policies EQ1, EQ10 and ED2 of the Local Plan for Sefton (2017) which seek to ensure, amongst other matters, that hot food takeaways are appropriately located and do not result in an unacceptable grouping of similar uses where they would harm the character of the area and the vitality and viability of a parade.

15. Furthermore, the scheme would not comply with paragraph 91 c) of the National Planning Policy Framework which aims to achieve healthy places which enable and support healthy lifestyles especially where this would address identified local health and well-being needs, including access to healthier food. It would also be contrary to the SPD which seeks to ensure new hot food takeaways do not result in unacceptable groupings in order to promote healthy communities and maintain the character, vitality and viability of local shopping parades.

Other Matters

16. The appellant states that the Council did not use the SPD in determining the application. However, it is evident within the first reason for refusal and the Officer's Report that the Council did assess the scheme against the SPD.
17. The appellant also states that the scheme would provide acceptable levels of sound attenuation and odour control to satisfy the requirements of the Environmental Health Department. The reasons for refusal did not relate to these matters and any avoidance of harm in these respects does not amount to a positive consideration in support of the appeal.
18. In addition, the appellant asserts that no meaningful discussions took place prior to the decision being made. Nevertheless, this does not have any bearing on the proposal and in any event I have determined the appeal on its planning merits.

Conclusion

19. The proposal would therefore conflict with the development plan and there are no other considerations that outweigh this conflict.
20. For the reasons given above the appeal should be dismissed.

L M Wilson

INSPECTOR