



Appeal Decision

Site visit made on 15 June 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2021

Appeal Ref: APP/W4705/W/21/3269659

2 Queensbury Court, Brighouse Road, Queensbury, Bradford BD13 1FF

- 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 Matt Brennan of Papa John's (GB) Ltd against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 20/05441/FUL, dated 26 November 2020, was refused by notice dated 21 January 2021.
 - The development proposed is change of use from a vacant retail unit (Use Class A1) to a Hot Food Takeaway (Use Class Sui Generis) together with minor alterations.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council have not referred to any development plan policies within their first reason for refusal. However, reference to the Core Strategy Development Plan Document (CS) Policy DS1 has been included by the Council within their delegated report, and provided as evidence before me. On this basis, I have thus taken it into account as part of my decision-making process.

Main Issues

3. The main issues of the proposal are:
 - The principle of the change of use to hot food takeaway with regard to local planning policy and guidance; and
 - Whether or not it would lead to highway and pedestrian safety concern.

Reasons

4. The appeal site is located within a modern purpose built complex of commercial and residential units set back from Brighouse Road. It has a shared parking area in front of the main building.

Principle

5. The Council published its Supplementary Planning Document Hot Food Takeaways 2014 (SPD) with the aim to manage the distribution of hot food takeaway outlets within the Council area. It sets out a number of principles against which such proposals should be considered.

6. Regardless of whether or not the proposed site is located close to other commercial premises and its proximity to the local centre of Queensbury, nonetheless, it is located outside the designated city centre, town centres, and district and local centres. Its location outside a defined local centre is ultimately accepted by the appellant.
7. As part of its core principles, the SPD explains that the proximity of hot food takeaway uses outside these areas will be resisted if they fall within 400m of the boundary of a park. There is nothing before me to indicate that the appeal site is beyond 400m from Littlemoor Park, irrespective of whether or not it is accessed through a residential housing estate.
8. The SPD highlights issues arising from the proximity of hot food takeaway outlets to youth facilities. There is a gym located within 400m of the appeal site. From my inspection, this was a private members gym. There is nothing before me to indicate that the gym forms part of a 'youth facility' and therefore I discount it as part of my consideration.
9. The local swimming pool at Queensbury did appear to be closed at the time of my visit. However, there is no information provided by the appellant, evidence from the Council, or indeed from the local Ward Councillors, that the use has permanently ceased. Therefore, as a youth facility, I am required to consider its location and proximity to the appeal site as part of my assessment. With no information on the contrary, I consider it has the potential to come back into operation as a youth facility.
10. To conclude, my findings are that the principle of the proposal would not achieve high quality places in accordance with CS Policy DS1 or minimise the negative impacts of takeaways on childhood health thus conflicting with the SPD Hot Food Takeaways.

Highway and pedestrian safety

11. Three parking spaces would be allocated to the appeal premises, directly outside the proposed unit. At the time of my visit the courtyard space was formally laid out for parking for approximately fifteen spaces with no spaces within the courtyard occupied, although I appreciate this was a moment in time.
12. The main Brighthouse Road outside the Queensbury Court is a busy thoroughfare and junction with traffic lights controlling vehicles in all directions, and parking restrictions to both sides of the road.
13. The fact that the appeal site is located within an area with a self-contained and spacious courtyard and within easy vehicular access from the main road, encourages drivers to enter the courtyard space. I would expect parking for customers and delivery drivers in the first instance to occur within the dedicated parking areas and for short periods of time to either order food on the premises, or to collect pre-arranged orders.
14. Even if the three dedicated parking spaces were continuously occupied, there is nothing before me to demonstrate that the other parking spaces in the courtyard are not available to be used for short term parking.
15. Overall, whilst three parking spaces may not meet the Council's specific requirements, taking account of the available parking within the courtyard, I

consider the shared parking space would provide adequate parking spaces for customers and delivery drivers without the need to park on the main road. Further, there are other modes of public transport available within close proximity of the site to avail of should customers wish. However, I accept the reliance on the private car to be highly likely.

16. Should indiscriminate parking occur on the main road as a consequence of the proposal, there are other mechanisms outside the planning system to control this.
17. To conclude, given the internal courtyard parking arrangement at the appeal site, this would prevent parking occurring on the main road and would not lead to a detrimental impact on highway or pedestrian safety. The proposal would not conflict with the CS Policy DS4 in its broad objectives that includes achieving well designed car parking.

Other Matters

18. The proposal may occupy a currently vacant unit and generate employment opportunities as well as offer a choice of food to the local population. However, these factors do not lead me to reach a favourable decision on the appeal.
19. I am aware of the support generated to the proposal and the publicity comments brought to my attention although I cannot comment on a new school built close to another eating outlet, the Council's planning consistency, or the existing consumer choice on offer locally.
20. The previous use may have formed part of a larger restaurant unit at one time. However, it has been subdivided with permission granted for the appeal unit as an A1 use. Even if it has not been occupied as such, it remains an A1 use. This proposed change of use must be considered on its own merits.
21. The SPD may have been published prior to the Core Strategy and the proposal may meet the requirements of CS policy EC5, however, the proposal should be considered against the development plan taken as a whole.
22. Any issues with the Council's service should be in the first instance referred to them for comment.

Conclusion

23. I have found that the proposal would not result in detrimental harm to highway or pedestrian safety. However, having considered the principle of the proposal with regard to local planning policy and guidance, I have concluded it to be unacceptable development. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Alison Scott

INSPECTOR