



Appeal Decision

Site Visit made on 13 July 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2021

Appeal Ref: APP/W4223/W/21/3269955

692 Hollins Road, Oldham OL8 4JZ

- 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 Abul Kahar against the decision of Oldham Metropolitan Borough Council.
 - The application Ref FUL/345606/20, dated 8 October 2020, was refused by notice dated 8 January 2021.
 - The development proposed is change of use from existing ground floor bookmakers to hot food takeaway.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with the opportunity to comment on the relevance of this revision to the Framework to their respective cases.

Main Issues

3. The main issues are the effect of the proposal on parking and highway safety in the area, and whether the proposal would make suitable provision for refuse.

Reasons

Parking

4. The appeal site is located on Hollins Road, a busy arterial road through the Hollins area to the south of Oldham. Terraced housing lines both sides of the street around the appeal site, a former betting shop now closed. Parking bays run along the adjacent side of the street to the site, with a bus stop immediately outside the site near the corner with Lynton Avenue. This corner has double yellow lines, with on-street parking prevalent on Lynton Avenue.
5. The proposed use as a takeaway would operate between 1700 hours and midnight every day. Therefore, its impact on parking pressure during the day would be limited, as the only visitors would be deliveries or staff.
6. However, when trading in the evening, the proposal is likely to generate additional demand for parking, particularly during the dinnertime period. During this same time, the parking bays along Hollins Road are likely to be in high demand by residents returning from work and parking their vehicles overnight, a point made by the Council's Highways Officer. Therefore, visitors

to the takeaway would either take these spaces and force residents to park further away or, if the spaces are already taken, customers would have to find another parking space, resulting in additional vehicular movements around the immediate environs of the site. However, the typically short visiting times to a takeaway may tempt drivers to instead park or idle in an unsafe position near the site, such as on the corner with Lynton Avenue or in the bus stop. This would result in other vehicles being unsighted when emerging from Lynton Avenue, or buses being delayed or forced to double park and passengers to alight and board on the road.

7. I accept that the proposal would be well located for pedestrians and those using public transport, but the location of the bus stop immediately next to the site would conversely increase the risk of conflict between pedestrians and cars visiting the site. The presence of another junction opposite the site leading to Walker's Road, and a signalled pedestrian crossing a short distance away further complicates the highway layout in this area and adds to my concerns that traffic generated by the proposed use would lead to an unacceptable risk to highway and pedestrian safety, for which no mitigation measures or alternative parking solutions have been advanced.
8. The appellant argues that previous use as a bookmakers generated more parking demand due to the longer time spent on the premises by customers, including in the evening as the business traded until 2130 hours. I have no evidence of parking demand associated with the former use. However, the nature of a betting shop is that trade is spread across the day, and is unlikely to generate the kind of peak in demand that would occur at a takeaway in the evening. Consequently, I am not persuaded that the proposed use would have less impact on highway safety than the previous use.
9. The appellant states that the premises has always been in commercial use and generated demand for parking, having been a laundrette prior to it becoming a betting shop, and will always require parking. That may be so, but the amount of parking required, and the time at which it would be in highest demand, can differ significantly depending on the use to which the premises are put. I have no evidence of an alternative scheme for the site to which the proposal may be compared. Therefore, I have determined this proposal on its own merits.
10. For these reasons, I conclude that the proposal would result in unacceptable harm to highway and pedestrian safety, contrary to Policy 9 of the Oldham Joint Core Strategy and Development Management Policies Development Plan Document (November 2011) (the JCS) which requires that development minimises traffic levels and does not harm the safety of road users. There would also be conflict with Paragraph 111 of the Framework, which sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Provision for Refuse

11. Dwellings on Hollins Road and Milford Avenue both back onto a shared, gated alleyway that I saw was used for bringing bins out for collection, and also storage. Despite the presence of a number of bins, I saw the alleyway to be well-maintained, with no obvious evidence of rubbish left outside of any property. The appeal premises have been extended to the full depth of the site. As such, the site no longer retains an enclosed rear yard as do neighbouring properties. The submitted plans show the kitchen and food preparation area

would occupy the majority of the floorspace of the takeaway, with only a small internal store room accessed from the preparation room at the rear.

12. A takeaway use is likely to generate significant and constant refuse, including packaging, food waste and cleaning waste. There is no indication in the appellant's evidence as to how this waste would be managed. However, I have misgivings that the small store room, which is likely to be required for stock and equipment, would be suitable to store refuse from the business, especially food waste. There would be no other spaces available within the confines of the site to safely store refuse before collection. Consequently, there is a significant risk that refuse would be stored in the alleyway behind the premises, where it would pose a significant hazard to the living conditions of neighbouring residents in terms of odour and potentially vermin.
13. I acknowledge that other residents store bins in the alleyway, but these could be moved into rear yards if necessary, whereas waste from the takeaway could not. Moreover, domestic refuse is not comparable to commercial refuse in terms of volume, and its constant presence within the alleyway would be a harmful visual intrusion into an otherwise well-maintained space.
14. For these reasons, I conclude that the proposal would fail to make suitable provision for refuse, and would cause significant harm to the visual amenity of the area and to the living conditions of neighbouring occupants. This would conflict with Policies 9 and 20 of the JCS, which together require development of high quality design that does not cause significant harm to the amenity of neighbouring occupants due to, among other things, odour, pollution, other nuisances or adverse impact on the visual appearance of an area.

Other Matters

15. The appellant argues that until a use is found for the ground floor, no access would be possible to the upper floor flat. However, nothing in evidence explains why access is dependent of the use of the ground floor, as the entrance door and staircase could be constructed independently of other works. Indeed, it is indicated that a planning application has already been made for such works. As such, I afford negligible weight to this argument, and to other comments in relation to potential proposals for this site and that next door and No 690, for which I have no substantive evidence. However, I accept that the proposal would facilitate access to the upper floor flat, which carries limited weight.
16. The appellant also makes reference to other matters relating to the appeal site, including issues relating to commercial rates and Council tax. However, such matters are not directly relevant to my consideration of the appeal which must be assessed solely on its planning merits.

Conclusion

17. The proposal results in conflict with the development plan, and other material considerations do not indicate that planning permission should be forthcoming in spite of this. Therefore, for the reasons given and taking account of all relevant matters, the appeal should be dismissed.

K. Savage

INSPECTOR