



Appeal Decision

Site Visit made on 16 September 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/U4610/W/21/3274847

7A Brandon Road, Coventry CV3 2JD

- 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 Harbinder Singh against the decision of Coventry City Council.
 - The application Ref FUL/2020/1361, dated 27 March 2020, was refused by notice dated 13 November 2020.
 - The development proposed is change of use from retail shop (Use Class E) to hot food takeaway (Use Class Sui Generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the Council's decision notice as it more accurately reflects the change of use proposed in light of the reform of the Town and Country Planning (Use Classes) Order 1987 (as amended).
3. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been given the opportunity to make any comments on the implications of the revised Framework to this appeal and I have taken the comments into account in my considerations.

Main Issues

4. These are:
 - i) whether the proposal would be in a suitable location having regard to the policies of the Coventry City Local Plan (2017) (LP);
 - ii) the effect of the proposal on highway and pedestrian safety, and;
 - iii) whether the proposed development would be harmful to the living conditions of neighbouring occupiers with regard to noise, disturbance and odour.

Reasons

Location of development

5. Policy R6 the LP seeks hot food takeaways in defined centres and discourages these uses elsewhere. The appeal site is outside of a local or district centre

and therefore is not an appropriate site for a hot food takeaway according to the terms of Policy R6.

6. Policy R6 refers to the Council's Hot Food Takeaway Supplementary Planning Document (2019) (SPD). The SPD states that in areas over concentrated with hot food takeaways further proposals for such uses will not be granted. The appellant does not dispute the Council's contention that the appeal site is in an area where the number of takeaways per one thousand population exceeds the average for England. Therefore, for this reason, the development would be within an area that is over-concentrated with hot food takeaways and against the provisions of the SPD.
7. There is no reference in Policy R6 or the SPD to the need for a sequential assessment. Sequential assessments are required for retail and Main Town Centre use proposals outside a defined centre. The National Planning Policy Framework (2021) lists Main Town Centre uses and hot food takeaways are not included. Therefore, the suggestion that there are no suitable premises in local centres for the use proposed carries no weight in favour of the appeal.
8. And so, the development would not be within a defined centre and would lead to a concentration of hot food takeaways. As such, the proposal would not be in a suitable location having regard to Policy R6 of the LP and the SPD.

Highway and Pedestrian Safety

9. Brandon Road is a busy throughfare and the site is close to an equally busy road junction. It was also apparent from my site visit that given the limited space to the front of the appeal site and adjoining premises, there was a competition for parking and vehicles moved awkwardly, at times obstructing the pavement and slowing down the flow of traffic along Brandon Road.
10. As the site is outside a local or district centre, customers are likely to drive to the site. Furthermore, the convenient nature of a takeaway means that customers will choose to park as close to the premises as possible. Given the limited space for parking to the front of the site, drivers would be unable to move both on and off the site in a forward gear. Drivers reversing would have limited visibility of pedestrians using the adjoining footpath and therefore the safety of pedestrians would be jeopardised. Furthermore, the awkward manoeuvre of vehicles to the front of the site would interrupt the flow of traffic on Brandon Road. Given the existing hazards and constraints identified, the development would result in a competition for parking that would, in turn, cause severe harm to highway safety.
11. The appellant suggests that customers would travel on foot or by bicycle. However, the application is not supported by any measures or incentives to encourage customers to use alternative modes of travel. And whilst the parking survey concludes that there is an availability of parking spaces in the vicinity of the site, experience tells me that customers will park as close to the premises as possible.
12. In the absence of any evidence to suggest otherwise, I surmise that the number of customers visiting the former retail unit would be less than for a takeaway given that the former use served a niche market. The parking demands for the development proposed, therefore, would be greater than for

the existing retail unit and so the change of use proposed would not be less harmful in this regard.

13. The waste storage area is at the end of the row of shops and therefore is not within a convenient or usable distance of the appeal property. The appellant suggests that a waste disposal facility could be located to the rear of the appeal property but it is not clear where or how this could be adequately serviced. It is highly probable, therefore, that the development would lead to a proliferation of bins to the front of the site, as is the case for premises in the area. This would cause an obstruction to vehicles and pedestrians, exacerbating the harm found.
14. In conclusion, I find that the development proposed would be harmful to highway and pedestrian safety, contrary to Policies AC1 and AC2 of the LP which, amongst other things, seeks development that does not cause highway safety problems and promotes sustainable modes of travel.

Living conditions

15. The living spaces of the neighbouring residential property are within audible distance of the appeal site. The appellant has not indicated what the proposed hours of operation would be. However, takeaways are often open in the evening and at a time when residents quieten down. With the noise and disturbance that comes with the comings and goings of customers, the takeaway would be harmful to the living conditions of the neighbouring occupiers, albeit against the background noise of traffic on Brandon Road, the harm would be moderate.
16. The height of the extraction flue above the roof of the appeal property would not prevent the neighbouring occupiers from smelling cooking. I have no details of the extraction system to be certain that cooking odours would be neutralised. I accept that pizza may not emit as pungent smells as deep fat frying but if permission was granted, the takeaway use would not be limited to pizza. Had I found an absence of harm relating to other matters in this appeal, it may have been reasonable to secure ventilation and fume extraction details by condition. However, as it stands, residual odours would adversely affect the amenity of neighbouring occupiers.
17. All in all, the development would have a harmful effect on the living conditions of neighbouring occupiers with regard to noise, disturbance and odour, contrary to paragraph 130 of the Framework which seeks development that, amongst other things, provides a high standard of amenity.

Other Matters

18. The proposal may occupy a 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. Any issues with the Council's service should be, in the first instance, referred to them for comment.

Conclusion

20. I have found that the development would not be in a suitable location and would have a harmful effect on highway and pedestrian safety and on the living

conditions of neighbouring occupiers. There are no material considerations that indicate that the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal is dismissed.

R Walmsley

INSPECTOR