



Appeal Decision

Site visit made on 4 May 2021 by Darren Ellis MPlan

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2021

Appeal Ref: APP/W3005/W/20/3264320

15 Alferton Road, Underwood, Nottinghamshire, NG16 5GB

- 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 Miss Katie Cracknell against the decision of Ashfield District Council.
 - The application Ref V/2019/0713, dated 3 October 2019, was refused by notice dated 6 November 2020.
 - The development proposed is Change of use of small industrial canteen to cafe with additional seating.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. During my site visit I observed that a fence had been erected outside the micro-pub. The Swept Path Analysis of Large Car – Alferton Road (drawing no. ADC2483-DR-051 revision P4) was submitted by the appellant with the appeal documents and therefore was not part of the plans that the application was decided on. This drawing shows a revised parking layout to take account of the fenced off area. The revised layout has reduced the proposed car parking capacity at the front of the building, when compared to the plan submitted with the application. The plan before the Council when the application was determined depicted 12 spaces laid out parallel to the building at the front of the site¹ whereas the revised plan shows 9 spaces.
4. It is not immediately clear why the appellant has submitted a revised plan showing a reduced level of parking when the alleged shortage of parking is the main matter in dispute between the parties. Moreover, it is not clear whether the fencing/ outdoor seating area associated with the micro pub needs planning permission or has the benefit of planning permission. However, that element forms no part of my decision which relates solely to the proposed cafe.
5. Where an appeal is submitted it is made against the decision of the Council to refuse permission for the specific development proposed at the application

¹ ADC2483-DR-051 Rev P.2

stage. It is not the purpose of the appeal process to amend or evolve a scheme but to consider whether the Council's decision to refuse a particular proposal was justified. Were I to accept amended plans, it would deprive those who were consulted at the application stage of the opportunity to comment. Consequently, in the interests of fairness to all parties I have made my recommendation on the basis of the plans that were before the Council at the time the decision was made.

6. The Nottinghamshire County Council Highways Design Guide (HDG) was adopted on 13th February 2021, after the original application was determined by the Council. The HDG has superseded the 6C's Design Guide against which the original application was assessed. The HDG is a material planning consideration and as such this appeal will be determined with regard to the HDG. Both the Council and the appellant have had the opportunity to provide their comments on the relevant sections of the HDG and are not therefore prejudiced by my consideration of it.
7. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. Any comments which have been received have been addressed within the appeal decision.

Main Issue

8. The main issue is the effect of the development on highway safety.

Reasons for the Recommendation

9. The appeal site comprises an industrial unit in a mixed-use commercial building located in Alfreton Road. The building currently contains a micro-pub and an industrial unit. The proposal would change the use of part of this industrial unit to a café. The surrounding area is predominantly residential, with another industrial unit directly opposite the appeal site and the Underwood Miners' Welfare Institute to the south.
10. The proposal would include 12 car parking spaces to the front of the building and 12 spaces to the rear. Based on current usage the appellant has stated that the micro-pub uses five car parking spaces. The Council has accepted this figure and uses this in their calculations. Based on the HDG, the Council has calculated that the industrial unit would require 16 spaces. Based on the car parking standards set out in Section 3, Appendix 7 of the Ashfield Local Plan Review (November 2002) (ALPR), the Council has calculated that the proposed café would require 20 car parking spaces. In total, the Council states that 41 car parking spaces would be required and that, consequently, the 24 car parking spaces that would be provided falls substantially short of the required amount by the relevant parking standards.
11. It is unclear why the Council has used parking standards from two different documents in their calculations for the industrial unit and café. However, even if only one document were used then the proposed car parking provision would still fall short. The lowest figure is obtained by using the HDG, which would require 16 spaces for the industrial unit, based on a 900m² unit with 1 space per 55m², and 10 spaces for the 47m² of public area for the café. The parking

standards in the ALPR would require 22 spaces for the industrial unit, based on 1 space per 23m² for the first 235m² and 1 space per 57m² for the excess above 235m², and 20 spaces for the café. When combined with the 5 spaces required for the micro-pub, the HDG would require 31 spaces and the ALPR would require 47 spaces.

12. I note that in their comments in response to the adoption of the HDG, the appellant states that the café would have 56m² of public space. Using this figure would add two more spaces to the requirements of the HDG and four more spaces to the requirements of the ALPR.
13. The appellant states that the industrial unit is currently used on a small-scale and part-time basis. However, this level of use of the unit is not guaranteed to remain in perpetuity and it is possible that an increased use of the unit, with a greater demand than existing for car parking spaces, would occur at some point in the future. Consequently, there is a danger that the future use of the remainder of the unit would be sterilised if inadequate parking arrangements are retained to serve the industrial unit.
14. The Traffic Management Plan that was submitted by the appellant during the original application used the 6C's Design Guide in its assessments. However, the 6C's Design Guide did not set out any parking standards for cafés. The Traffic Management Plan used the standards for food retail in their calculations and consequently stated that only 9 spaces were required for the café. Food retail relates to shops rather than cafés, and as such this figure was incorrect for the proposed use.
15. Consequently, by any measure, the proposal falls significantly short of providing the level of parking required by local parking standards. In addition, the parking is split between the front and rear of the site, with only a limited number of spaces directly to the front adjacent to the café. The area at the rear has a more industrial appearance, serving as the access to the industrial unit. In the interests of convenience, those seeking to use the café may be more likely to park on the adjacent highway if the front parking spaces were occupied, as opposed to parking at the rear, off Church Lane, and having to negotiate the route round, which would involve passing through the fenced off area of the micro pub.
16. It is proposed that the opening hours of the café would be 07:00-23:00 every day. The proposal would therefore generate a significant additional demand on car parking spaces with insufficient car parking capacity, and would be likely to result in cars parking on the street. The surrounding roads are busy routes through Underwood, with Mansfield Road leading to the M1. Although heavily trafficked the roads are not wide enough for two vehicles to pass if a car is parked on the side of the carriageway, such that oncoming vehicles would have to pass onto the other side of the road to negotiate parked cars. The roads already have a degree of on-street parking, and the extra cars that would park on the street as a result of the proposal would cause additional obstruction to vehicles using these busy roads, which would impede the free flow of traffic and have implications for highway safety.
17. The parking area to the front of the building has a dropped kerb that is almost as wide as the building. Railings are currently in place on both sides to narrow the entrance to the car parking area, however these railings are of a temporary nature and are not shown on the submitted drawings.

18. The Council states that the car parking spaces and manoeuvring corridors are smaller than the Highway Authority's standards. The swept path analysis submitted by the appellant illustrates how cars would manoeuvre to enter and exit the site in a forward gear. However, many of the manoeuvres appear to be tight and would involve manoeuvring in close proximity to other parked cars. Given the limitations of the available space I find it likely that drivers would instead choose to leave the site by reversing onto the highway, which would be detrimental to highway safety, particularly given the busy nature of Alfreton Road. Such manoeuvres would become more hazardous if parked cars were situated on the highway close to the site, potentially reducing visibility between those leaving the site and oncoming traffic.
19. The width of the dropped kerb would allow vehicles to access and egress the site at any point along the dropped kerb. Although the proposed give way markings, which would be both before the highway and before the footway, would alert drivers to give way, these markings would be harder to see when manoeuvring or reversing. This would increase the risk of a collision with a pedestrian using the footway, and as a result would be to the detriment of highway safety.
20. Reference has been made to the previous uses of the appeal site and building as a bus depot, a traffic management company and as an operations unit for Virgin. These uses fall under different Use Classes to the proposed café, and as such are likely to have generated different amounts of traffic and had different policy requirements for car parking. From the information before me the previous uses are not directly comparable to the way in which the unit would be used under the proposed scheme and I have considered the proposal on its individual merits.
21. My attention has been drawn to the 1958 Coffee House on Sandhill Road, which has no off-street parking. However, this café is situated on a residential road and not a busy main road, and is therefore not directly comparable to the scheme before me.
22. For the reasons given above, I consider that the proposed café would cause harm to highway safety on account of the inadequate levels of car parking which would lead to an increased likelihood of cars parking on Alfreton Road, impeding the flow of traffic and the likelihood of vehicles reversing into a busy main road with limited visibility. The proposal would therefore be contrary to policy ST1 of the Ashfield Local Plan Review (November 2002) which requires that a development does not adversely affect highway safety.
23. For the reasons given above and having had regard to all other matters raised including the representations in support of the proposal, I recommend that the appeal should be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR