



Appeal Decision

Site visit made on 16 December 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2022

Appeal Ref: APP/D5120/W/21/3270831

Rear of 237 Bexley Road, Erith DA8 3EX

- 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 Oluwabusola Owolabi against the decision of London Borough of Bexley.
 - The application Ref 20/01627/FUL, dated 29 December 2020, was refused by notice dated 4 March 2021.
 - The development proposed is Change of use of ground floor from storage (Class B8) to hot food takeaway (Sui Generis) with ancillary storage at first floor including enlargement of ground floor windows and provision for motorbike parking and bin storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on 1) highway and pedestrian safety in terms of parking, and 2) the living conditions of occupants of nearby residential properties with specific regard to noise and disturbance.

Reasons

Highway safety

3. The appeal site is located to the rear of Bexley Road and is within the Northumberland Heath District Centre. It comprises a two-storey building that is accessed from a shared access from Limewood Road.
4. The section of Bexley Road, which the appeal site is to the rear of, is made up of a number of commercial properties in a predominantly linear form, including some hot food takeaways. The streets behind Bexley Road are primarily made up of residential properties.
5. The proposed access arrangements would be taken from the existing back lane leading from Limewood Road. The back lane comprises a gravelled surface and also provides access to the rear of commercial properties on Bexley Road and residential properties on Hurst Road, including garages. The appellant has indicated that parking would be provided on land to the side of the appeal property, however this is not within the defined appeal site and there is no suggested means of ensuring the land is available for parking associated with the proposed use. This suggestion would also contradict the Planning/Design

and Access Statement which outlines at paragraph 6.1 that no car parking is provided.

6. There is on-street parking available on Limewood Road, with one section of parking bays closest to Bexley Road having a limitation of one hour between 8am and 6pm. There does not appear to be any parking restrictions on Hurst Road.
7. I observed on my mid-morning site visit that there was a high level of on-street parking in the streets surrounding the appeal site. Residential streets are also more likely to experience greater demand for parking during evenings when people are in their homes.
8. The evidence shows that the intention is to operate the hot food takeaway on a delivery basis using motorcycles. The plans show how up to three motorcycles would park and utilise service hatches in the building. I share the Council's concern that despite the specific nature of the operation put forward, the proposed use could be operated more intensely with greater numbers of motorcycles or other vehicles, and customers calling to the premises to collect orders. Any planning conditions to restrict the operation to that which is outlined would be likely to fail the test of enforceability.
9. Taking this into account, and based on the evidence before me, I can not be certain that a hot-food takeaway could operate from this site without creating a demand for parking that could be accommodated in the area, that would ultimately lead to indiscriminate short-term parking that would obstruct the highway and the flow of traffic.
10. I am therefore unable to conclude that the operation of a hot-food takeaway would not have an unacceptable impact on highway and pedestrian safety. The proposed development would therefore be contrary to Policies T17, SHO9 and ENV39 of the Bexley Unitary Development Plan (2004). Collectively these policies seek to ensure that appropriate levels of parking are identified for developments, and that food and drink uses will be restricted where they would create traffic or parking problems.
11. The Council have referred to Policy CS15 of the Bexley Core Strategy (2012) in their reason for refusal in relation to highway safety. This is a strategic level policy to achieve an integrated and sustainable transport system, which I do not find the proposed development would conflict with.

Living conditions

12. The appeal property is located to the rear of residential properties on Hurst Road. Although the site is to the rear of the commercialised section of Bexley Road, it is markedly quieter and more subdued, being more akin to the residential nature of the wider area.
13. As outlined, the intention is to operate the hot food takeaway on a delivery basis using motorcycles. The plans show how up to three motorcycles would park and utilise service hatches in the building. The evidence also shows that the intended hours of operation are from 1000 to 2200.
14. Due to the proximity to the residential properties, the proposed use, that would involve repeated collections by motorcycles, would generate noise and disturbance from their engines starting, idling, and revving that would cause

significant harm to the living conditions of occupants of nearby residential properties. Such noise would be particularly noticeable in the later evening hours when residents can reasonably expect a quieter noise environment in this setting.

15. Again, I share the Council's concern that despite the specific nature of the operation put forward, the proposed use could be operated more intensely with greater numbers of motorcycles and customers calling to the premises to collect orders. Any planning conditions to restrict the operation to that outlined would be likely to fail the test of enforceability.
16. The Council refer to the harmful impact on living conditions in relation to litter, anti-social behaviour, and cumulative impacts from similar units in the vicinity. There is however no substantive evidence on any of these points that unacceptable harm would be caused as a result.
17. The proposed development would therefore cause significant harm to the living conditions of occupants of nearby residential properties with regard to noise and disturbance. It would be contrary to Policies ENV39 and SHO9 of the Bexley Unitary Development Plan (2004) which require, amongst other things, that development must not have an unreasonable effect in terms of noise, and that food and drink outlets must not have an adverse effect on the amenities of residential occupiers by reason of noise or other disturbance.
18. The proposed development would also be contrary to Policies D13 and D14 of The London Plan (2021) which require, amongst other things, that developments avoid significant adverse noise impacts.

Conclusion

19. Therefore, for the reasons set out above, and having had regard to all other matters raised, the appeal is dismissed.

A M Nilsson

INSPECTOR