



Appeal Decision

Site visit made on 19 January 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Appeal Ref: APP/K2230/W/21/3277701

7 Cross Lane West, Gravesend, DA11 7PZ

- 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 Douglas Bruce against the decision of Gravesend Borough Council.
 - The application Ref 20200689, dated 8 July 2020, was refused by notice dated 13 April 2021.
 - The development proposed is change of use of existing laundrette to food takeaway.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application the subject of this appeal was submitted prior to 1 September 2020 when changes to the Use Classes Order came into force. Therefore it should be determined with reference to the previous use classes and so involves a change from Class A1 to Class A5.

Main Issues

3. These are the effect of the proposed use on the living conditions of the occupiers of nearby residential properties with particular reference to noise, disturbance and odours and the effect on highway safety.

Reasons

Living conditions

4. The appeal premises are part of a short parade containing a barber, sports rehabilitation clinic and florists. These are adjoined by a beauty salon. None of these uses are likely to remain open into the evening. There is a self-contained flat on the upper floor and the immediate area is otherwise residential.
5. Although the opening hours could be limited by condition a hot food takeaway would be bound to operate in the evenings. The appellant's highway and transport statement indicates that this would be until 2200 hours. Cross Lane West is busy but the other commercial uses nearby would be closed at that time. Given the absence of other significant activity, the proposed use clearly has the potential to be disruptive to the residents who are close at hand.
6. In particular, there is likely to be noise and disturbance associated with vehicles arriving and leaving, slamming doors, radio noise and people talking or congregating outside. These external activities cannot be controlled and

internal noise insulation would not mitigate the impact. They are likely to occur equally whether food is collected by customers or if a delivery service operates. It is not unheard of for residential uses to be above or near takeaways and there is no policy presumption against this. However, given the lack of other uses operating after conventional working hours, the effect on the locality would be magnified.

7. Odour is another potential source of nuisance. Conditions could be imposed in relation to extraction and any system designed to minimise noise and vibration. Waste storage could be provided at the rear. However, there is no indication of where any flue or trunking could be installed taking account of the flat above or whether it would be effective. Furthermore, based on its experience, the Council is concerned that it would not be possible to abate smells from fugitive emissions caused by doors and windows being left open.
8. The proposed use would therefore harm the living conditions of the occupiers of nearby residential properties. It would be contrary to Policy CS19 of the Core Strategy and Policy S7 of the Local Plan First Review. These seek to safeguard the amenity of neighbouring properties including any nearby residential accommodation and to avoid adverse environmental impacts.

Highway safety

9. Outside the parade of shops are about six short-term on-street parking spaces. These are restricted in use until 1830 hours apart from on Sundays. Elsewhere along Cross Lane West there are double yellow lines and to the west is a controlled parking zone for permit holders only on weekdays. The appeal site is close to a signalled road junction with Singlewell Road and Cross Lane East.
10. The terraced housing nearby generally does not have off-street parking and the Council describes the demand for kerbside parking as high and as an “acute” issue. The concern is that the lack of available spaces near to the proposed fast food outlet would tempt people to park illegally thereby impeding the flow of traffic and causing hazardous obstructions around the crossroads. In an appeal (Ref: APP/K2230/W/18/3219116) for a Class A5 use at 66-68 Singlewell Road, the Inspector found that the scope for accidents as a result of such parking would be unacceptably high. This was also due to the narrow road widths and the high levels of traffic.
11. The proposed use would increase the amount of short-term parking in the vicinity. However, there is no empirical evidence as to the likely extent of this and how it might be affected if the business ran a delivery service. Moreover, the appellant’s parking survey over two days in November 2020 shows that there were unoccupied spaces outside the parade at Cross Lane West at both 1800 and 2100 hours. Whilst it is less likely that other available spaces identified in the surrounding area would be utilised, the evidence is that there is reasonable capacity for parking close to the appeal site.
12. The results of the survey should not be invalidated because of the restrictions that were then in force due to the pandemic. They also represent more than a “snapshot” at one moment in time. The Council’s delegated report mentions that site visits have shown that very few of the restricted spaces remain free in the evenings. But some of them do and no detailed information, including a more recent survey, has been submitted to supersede the appellant’s assessment. Therefore, based on the available evidence, there would be on-

street parking available for the vehicles of customers and delivery drivers likely to be generated by the proposed use.

13. As such, there would be no unacceptable impact on highway safety. There would be no conflict with Core Strategy Policy CS11 or Policy S7 of the Local Plan First Review. These expect proposals to mitigate their impact on the highway network and that adequate parking space is available. There is no indication that the appeal at 66-68 Singlewell Road and the one at 123 Singlewell Road in 2012 were determined in the light of studies of the actual position on the ground. The conclusion reached on this issue in this case can therefore be distinguished from those decisions.

Conclusion

14. Although the proposal would not prejudice highway safety it would be detrimental to the living conditions of those nearby. The proposed use would not accord with the development plan and there are no other material considerations to outweigh that finding. Therefore, for the reasons given, the appeal should fail.

David Smith

INSPECTOR