



Appeal Decision

Site visit made on 15 February 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/Z0116/W/21/3286189

46 Ridingleaze, Lawrence Weston, Bristol BS11 0QE

- 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 Aman Virk of Papa John's (GB) Ltd against the decision of Bristol City Council.
 - The application Ref 21/03337/F, dated 15 June 2021, was refused by notice dated 19 October 2021.
 - The development proposed is change of use from currently vacant former bookmakers (Sui Generis) to a Hot Food Takeaway (Sui Generis) together with new shopfront and roller shutters to the front elevation and wall mounted extract and boiler flues, fresh air intake grill and condenser to the rear elevation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from currently vacant former bookmakers (Sui Generis) to a Hot Food Takeaway (Sui Generis) together with new shopfront and roller shutters to the front elevation and wall mounted extract and boiler flues, fresh air intake grill and condenser to the rear elevation, at 46 Ridingleaze, Lawrence Weston, Bristol BS11 0QE in accordance with the terms of the application, Ref 21/03337/F, dated 15 June 2021, subject to the conditions set out in the attached Schedule.

Main Issues

2. The main issues are the effect of the proposed change of use on:
 - The retail function of the Ridingleaze local centre; and
 - The living conditions of neighbouring residents, with regard to antisocial behaviour and littering, as well as any effect on the promotion of unhealthy lifestyles to young people.

Reasons

3. The appeal site is a ground floor commercial unit. It is part of a row of three storey terraced buildings, with commercial units at ground floor, and mainly residential uses above. It is within the designated Ridingleaze local centre, which is a primary shopping area. There is parking to the rear and an area of public open space opposite the frontages. The site was previously in use as a bookmakers but is currently vacant.

Retail function

4. The Lawrence Weston Neighbourhood Plan 2017 (NP), which forms part of the local plan, contains a map which shows that the Ridingleaze local centre

contains 24 units. Those in the main terrace are in commercial use, with uses including offices, a health centre and church located in detached buildings to the northern and southern ends of the defined local centre. As evidenced by my site visit, the commercial units include a supermarket and a number of smaller food shops, several convenience stores, a café, and a pharmacy, barber, solicitor and dog groomer. I note the varied opinions in the appeal submissions, but from my own assessment, the local centre currently contains three units that for planning purposes would class as being in use as hot food takeaways¹. On this basis, the centre contains a good mix of uses and vacancy levels seem low. There is also a large supermarket just outside the boundary of the designated local centre.

5. The existing three hot food takeaways represent only a small proportion of the 24 units in the local centre and the proposal would only increase the number to four. This would maintain an appropriate balance of uses in the local centre which could meet day to day shopping needs. As such, the proposal would not constitute an over concentration of takeaways within the Ridingleaze local centre.
6. Policy JSB3 of the NP seeks to support development that would contribute to the character and retailing vitality of the Ridingleaze local centre, but states that proposals for changes of use to fast food takeaway outlets will be resisted. In the policy justification, the NP states that *'as fast food takeaway outlets account for over 20% of current retail units in Ridingleaze, this neighbourhood plan policy limits further changes of use to Use Class A5². Further takeaways may result in harm to the vitality, viability and retail function of the centre if the existing proportion of shops is not maintained'*. I acknowledge that the stated 20% seems to be an estimate of the situation at the time the NP was produced, rather than a specific set threshold for takeaways. However, it does provide context for the policy and I have to consider any harm that the proposal would cause. I have no substantive evidence to support a conclusion that one additional hot food takeaway would result in harm to the retailing vitality of the Ridingleaze local centre.
7. I conclude that the proposed development would not cause unacceptable harm to the retail function of the Ridingleaze local centre and would comply with Policy DM9 of the Bristol Local Plan Site Allocations and Development Management Policies 2014 (SADMP) and the aims of Policy JSB3 of the NP, which together seek to maintain or enhance the viability and vitality of local centres.

Living conditions

8. In assessing the impact of proposed food and drink uses, Policy DM10 of the SADMP requires consideration of any harm which might arise from the number and distribution of such uses, including general disturbance, litter and late night activity. As set out above, the proposal would not result in an over concentration of hot food takeaways, but the impact of one additional hot food takeaway still needs to be considered.

¹ A fish and chop shop, a Chinese takeaway, and a kebab/burger shop.

² The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 made changes to the Town and Country Planning (Use Classes) Order 1987. Policies with the SADMP and the NP predate this change. Hot food takeaways were within use class A5 but are now a sui generis use.

9. A number of objections have been raised on the basis that the proposal would increase anti-social behaviour and littering. I have been provided with background information regarding the levels of anti-social behaviour and crime in the area and the local levels of deprivation. In view of this I can understand and sympathise with the concerns of the local community. I have also been informed that measures are in place, outside of the planning system, which aim to address the antisocial behaviour and crime issues. Whilst it is likely that the proposal would increase activity in the local centre to some extent, including in the evening, unacceptable disturbance and littering are not an automatic consequence of a hot food takeaway use. The Police crime prevention design officer has commented that *'due to the nature of this retail unit it is unlikely that we would see the type of theft and anti-social behaviour experienced within the neighbouring business premises'*. They go on to note that it might *'encourage individuals to loiter outside and be drawn into nuisance behaviour'*, but suggest measures to mitigate against this, which could be secured by condition.
10. Information provided by the Council shows that most of the units are unrestricted in planning terms with regard to opening hours, and the kebab shop has planning permission to open until 23:30 Monday to Saturday and 22:30 Sunday. Existing businesses may choose to close earlier than they are required to, but the opening times requested for the proposed development are broadly in line with what can already take place in the local centre.
11. Whilst acknowledging there are residential uses above the commercial units, the site is within a designated local centre where expectations in terms of activity are quite different to a purely residential area. I have not been provided with substantive evidence which would lead me to conclude that the addition of one hot food takeaway, to a local centre where similar uses already take place, would increase the level of anti-social behaviour and littering to such an extent that it would warrant withholding planning permission.
12. Policy DM10 also states that *'takeaways in close proximity to schools and youth facilities will not be permitted where they would be likely to influence behaviour harmful to health or the promotion of healthy lifestyles'*. I acknowledge that there are schools and youth facilities within 400 metres of the site. However, the proposal would add one hot food takeaway option to a local centre which already offers a wide range of food choices, including both healthy and unhealthy options. In this context, whilst the proposal would offer an additional choice, the evidence does not lead me to conclude this would influence behaviour in any significant way or necessarily result in more unhealthy choices being made.
13. I conclude that the proposed development would not cause unacceptable harm to the living conditions of neighbouring residents, with regard to antisocial behaviour and littering, and would not result in the promotion of unhealthy lifestyles to young people. Consequently, the development would comply with Policy DM10 of the SADMP which seeks to manage the impact on an area of food and drink uses and the evening economy.

Other Matters

14. I note concerns regarding the site being occupied by a national chain, rather than a local business, and competition with existing businesses. I also note comments about promotions offered by the applicant company and suggestions

for the type of business that would be desirable at the site. The planning system cannot control or direct the specific business which might occupy a site for the permitted use, and private business interests are not a matter for consideration under this appeal.

15. Concerns have been raised regarding potential issues caused by a delivery service operating from the site. These concerns have not been fully substantiated and the Council consider that this could be adequately controlled by conditions. Given the information available to me and context of the site, I have no reason to conclude otherwise.

Conditions

16. The Council have suggested a range of conditions and the appellant has confirmed that the suggested conditions are acceptable. I have considered the suggested conditions and amended them only as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance.
17. I have applied standard conditions in relation to timescales and plans in the interests of proper planning and in order to provide certainty. A condition requiring the approval of shutter and CCTV details is necessary in the interests of maintaining the character and appearance of the area as well as safeguarding the living conditions of neighbouring occupants. Given the concerns raised regarding anti-social behaviour in the area, securing the installation of the CCTV via condition is considered necessary and reasonable.
18. Conditions restricting noise from plant and equipment, limiting the hours of opening and deliveries, and securing appropriate refuse/recycling facilities and times, are also necessary in the interests of the living conditions of neighbouring residential occupants.
19. I have used prior to commencement clauses only where they are essential for the condition to achieve its purpose. However, conditions regarding appropriate security, noise and odour management, and refuse and recycling facilities, all need to be in place before the use of the site as a hot food takeaway can commence, in order to ensure that the living conditions of neighbouring occupants is safeguarded.

Conclusion

20. For the reasons given above and taking into account the development plan as a whole and all other matters raised, I conclude that the appeal should be allowed.

Helen Davies

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 20190-01 Location and block plan
 - 20190-02 Existing ground floor plan
 - 20190-03 A Existing elevations
 - 20190-10 REV A Proposed plans
 - 20190-11 REV B Proposed elevations
 - Supporting information - Proposed Extraction System and Plant
3. Detailed drawings at an appropriate scale, along with operational details of the following, shall be submitted to and approved in writing by the Local Planning Authority:
 - a) The roller shutter, including the housing within the fascia;
 - b) CCTV camera system.

The approved drawings and operational details shall be implemented in full prior to the commencement of the use hereby approved and shall be retained thereafter.

4. The use hereby permitted shall not commence until an assessment of the potential for noise from the development to affect neighbouring premises has been submitted to and approved in writing by the Local Planning Authority. The assessment shall include:
 - a) Noise from the inside of the unit affecting the flats above;
 - b) Noise from any plant or equipment that forms part of this application;
 - c) Noise from delivery vehicles associated with any part of the use.

The noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS4142+A1:2019 Methods for rating and assessing industrial and commercial sound, and BS 8233: 2014 Guidance on sound insulation and noise reduction for buildings. If the assessment indicates that noise from the development is likely to affect neighbouring residential or commercial properties then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The noise mitigation measures shall be designed so that nuisance will not be caused to the occupiers of neighbouring noise sensitive premises by noise from the development. The approved scheme of noise mitigation shall be implemented in full prior to the commencement of the use hereby approved and permanently maintained thereafter.

5. The use hereby permitted shall not commence until an odour management plan has been submitted to and approved in writing by the Local Planning Authority. The plan should set out cleaning, maintenance and filter replacement policies along with a written recording system to demonstrate when all such work is carried out. The approved odour management plan shall be implemented in full prior to the commencement of the use hereby approved and complied with thereafter.
6. The use hereby permitted shall not commence until the refuse store and area/facilities allocated for storing of recyclable materials, have been implemented in accordance with the approved drawings. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved drawings, or

internally within the building that forms part of the application site. No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.

7. The rating level of any noise generated by plant and equipment as part of the use hereby permitted, shall be at least 5 dB below the background level as determined by BS4142+A1:2019 Methods for rating and assessing industrial and commercial sound.
8. Customers shall be on the premises only between the hours of 10:00 to 23:00 Sunday to Thursday and 10:00 to midnight on Friday and Saturday.
9. Activities relating to deliveries shall take place only between 08.00 and 20.00 Monday to Saturday and not at all on Sunday or Bank Holiday.
10. Activities relating to the collection of refuse and recyclables and the tipping of empty bottles into external receptacles shall only take place between 08.00 and 20.00 Monday to Saturday and not at all on Sundays or Bank Holidays.

*****End of Conditions*****