



Appeal Decision

Site visit made on 15 February 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/A1910/W/21/3278371

Units 1 and 2, Richmond Square, Hicks Road, Markyate AL3 8FL

- 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 Harkalm Investments Ltd against the decision of Dacorum Borough Council.
 - The application Ref 4/01278/18/FUL, dated 22 May 2018, was refused by notice dated 11 June 2021.
 - The development proposed is change of use of Unit 1 (Class D1 Surgery/Health Centre Use) to Class A1 Convenience Foodstore, together with change of use of Unit 2 (Class A1/A2/ A3/A4 and B1) to 3no. residential units, together with associated external alterations and provision of parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application, subject of this appeal, was originally granted planning permission but that was subsequently quashed by the High Court¹. Some alterations to the proposal were made and when re-determined the Council refused planning permission. This appeal is against that decision and is based on the amended scheme.
3. Planning permission² was granted in July 2019 for the conversion of unit 2 from its lawful Class A1/A2/ A3/A4 and B1 use to 3no. residential units, together with associated external alterations and provision of parking. As such my decision focusses on the change of use of unit 1 with its associated external alterations and provision of parking.

Main Issue

4. The main issue is the effect of the proposal on highway safety.

Reasons

5. The proposed development would involve the change of use of a currently vacant unit into a supermarket, identified by the appellant as the Co-operative Food Group, having a total floor area of 347m² of which 170m² would be retail floor space. Hicks Road is one of three roads into Markyate from the A5183 and at the time of my mid-afternoon site visit it seemed reasonably busy. The road is not particularly wide and at my site visit I saw that there were vehicles

¹ Patel v Dacorum District Council [2019] EWHC 2992 (Admin)

² Ref 4/00655/19/FUL

parked along the south side of the road, opposite the site, which reduced the effective carriageway to a single car's width. Some of these vehicles were partly parked on the kerb, but others were positioned fully on the road. From the evidence provided, parking opposite the site seems to be a consistent feature.

6. In terms of servicing, the appellant has advised that the A1 use would generate a need for four to six deliveries each day. Two would be independent suppliers delivering newspapers and sandwiches and would be in large transit sized vans. One or two would be delivering bread, which would also be an independent supplier, and one or two would be Co-op's own deliveries supplying all other goods. These two to four deliveries would be in 8.1m long, 14 tonne rigid lorries. Deliveries would primarily be in the morning.
7. The development would provide one loading bay perpendicular to Hicks Road. The appellant's Delivery and Servicing Management Plan states that its use by non-delivery vehicles would be prevented by the presence of a retractable bollard. Using pre-arranged delivery windows, logistics planning programmes and GPS, staff on site can be made aware of when a delivery is imminent and so can lower or remove the bollard in readiness. Such measures will also be used to endeavour that no more than one delivery vehicle is at the site at any one time.
8. Whilst in theory this would be satisfactory, I have concerns over its practicability. For example, if a delivery was imminent and staff were otherwise engaged and not available to lower the bollard, or if the mechanism failed, the delivery vehicle would have to wait on the road. Similarly, if deliveries were held up by traffic, or if there were delays at previous calling points for the delivery vehicles, it is possible that more than one delivery vehicle would be at the site simultaneously, even taking account of the fact that each delivery would only be for a short time, which also may result in a delivery vehicle waiting on the road.
9. Due to the proliferation of parking opposite and on nearby roads, there would most likely be nowhere for vans or lorries to safely park whilst waiting. A waiting delivery vehicle would therefore, due to the narrow width of the road, most likely block the road entirely. Given the level of use of the road, this could quickly lead to congestion.
10. Overall, because of the proliferation of parking nearby, the limited width of Hicks Road and its role as a major route into the village centre, this particular location is sensitive to congestion. As such, any failure of the measures outlined above, even if infrequently, would have severe adverse consequences for traffic flow and highway safety. Securing the Delivery and Servicing Management Plan in a condition would not make the measures more reliable.
11. In terms of the geometry of the loading bay, vehicle tracking diagrams have been provided showing that even with cars parked opposite the bay, an 8.1m long lorry could still access the bay. The highways authority consider these plans to be accurate and although I acknowledge the contrary findings by DW Transportation instructed by an objector, I give more weight to the highways authority's independent assessment.
12. I recognise that the loading bay would allow vehicles to access and egress the site without needing to use High Street which was previously a concern of the

use of the existing parallel loading bay. Nonetheless the parallel loading bay would not rely on technology or Co-op staff to function. It also would appear to be large enough to accommodate an 8.1m lorry and other delivery vehicles simultaneously, should that situation arise, and most likely without reversing manoeuvres which would also temporarily block Hicks Road. Moreover, the highways authority previously found that using High Street was acceptable. Indeed, I recognise the highways authority have been involved in negotiations with the appellant for some time and have no objections to the current proposal either. However, my concerns are not inconsistent with the view of the highways authority.

13. Turning to parking, the Council's Parking Standards Supplementary Planning Document (November 2020) (SPD) shows that in this accessibility zone, small food shops of the size proposed, should provide one car parking space per 30m² of gross external floor area plus 6% for staff parking. This equates to total a need for 12 car parking spaces plus a staff space. The submitted plans show six spaces plus a staff space.
14. The SPD identifies that variations to the standards may be possible in some circumstances. The appellant has suggested that such circumstances exist here. One such circumstance is the fact that the appeal site already benefits from planning permission for a retail unit of 191m² and there is no customer parking provision for that. The proposal would be for a shop over 150m² larger. This uplift, when considered individually, would generate a need for five parking spaces, which the development would provide. Also, the fact that the unit would primarily serve Markyate, and all parts of the village are within reasonable walking distance of the site, means that many trips would be on foot.
15. It is also recognised that under the permitted rights now available, a change of use, effectively, from D1 to A1 would be permitted development. Were the appellant to take advantage of this, no additional parking would necessarily be provided.
16. It is acknowledged that presently some cars are parked on the pavement at the site, indeed at the time of my site visit there were cars parked in the undercroft beneath the first-floor part of unit 1. These vehicles would be displaced, possibly to the opposite side of Hicks Road, to Fleming Drive or to the public car park to the west, all of which have little spare capacity. However, this would also be the case if the units were occupied in accordance with the extant permission
17. Overall, I consider a departure from the parking standards set out in the SPD would be justified.
18. Nonetheless, I do not consider that the measures suggested in the Delivery and Servicing Management Plan for the operation of the loading bay would ensure that deliveries to the A1 unit would not compromise highway safety. As a result, the development would fail to accord with policies CS8 and CS12 of the Core Strategy (2013) and policy 51 of the Local Plan (2004) which together aim to improve road safety for traffic and ensure development provides safe access.

Other Matters

19. The development would provide an opportunity to bring an active use to the currently vacant ground floor part of the building, and the jobs created from that would also be a benefit. However, the existing consent, whilst unworkable for Co-op, could still be implemented by another operator and would generate a number of jobs. As such the benefit of the current proposal is limited.
20. Some residents have commented that they would welcome a shop like this in Markyate. However, the existing permission could provide for this without compromising highway safety.
21. Conversely some residents have objected to the proposal on a number of grounds. However, as I am dismissing the appeal, it is not necessary for me to consider those issues as, even if I were to find in favour of the appellant on those issues, they could not amount to positive benefits to outweigh the harms, so could not affect my decision.

Conclusion

22. The proposal would conflict with the development plan as a whole and there are no other considerations which would support a decision other than in accordance with the development plan. Therefore, for the reasons given and taking account of all other considerations, the appeal is dismissed.

Andrew Owen

INSPECTOR