



Appeal Decision

Site visit made on 21 February 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2022

Appeal Ref: APP/V1505/W/21/3286926

156 Markhams Chase, Basildon, SS15 5LB

- 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 Urim Haziri against the decision of Basildon Borough Council.
 - The application Ref 21/00518/FULL, dated 24 March 2021, was refused by notice dated 8 June 2021.
 - The development proposed is change of use from garage to hot/cold food takeaway.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's emerging Local Plan has been withdrawn from examination. Its policies accordingly carry no weight in the determination of this appeal.

Main Issues

3. The main issue is whether the appeal site is a suitable location for a takeaway having regard to local development plan policies.

Reasons

4. Policy BAS BE12 of the Basildon Local Plan 2007 (the LP) states that planning permission for the alteration of existing dwellings will be refused if, amongst other criteria, it causes material harm to the character of the surrounding area or noise or disturbance to the occupants of neighbouring dwellings.
5. The appeal site is a corner plot at the junction of Markhams Chase and Leinster Road. The garage is sited at the foot of the rear garden, facing onto Leinster Road.
6. There are no commercial premises in the near vicinity of the site, with the Leinster Road street scene in the vicinity of the site comprising the playing field of the neighbouring school along one side and flats and houses on the other. The nearby Markham Road street scene is comprised principally of houses with the primary school close to the junction of the two streets.
7. The introduction of a takeaway in this location would therefore be an incongruous feature in the area, not in keeping with its largely residential character.
8. The appellant states that the takeaway would only open between 9am and 6pm from Monday to Saturday. This could be controlled by an appropriately worded

condition, and odours from cooking could be managed by an extraction system. Parking in Leinster Road is not restricted. Given these considerations, the proposed development would not result in unacceptable noise or disturbance to the occupiers of neighbouring dwellings.

9. The appeal proposal would create new jobs, including providing employment for the appellant. This weighs in favour of the proposed development. The appellant further contends that they have not been able to find an alternative suitable site for the proposed use in a local or town centre, although as availability can change over time this consideration attracts limited weight.
10. Nevertheless, the proposed development would be out of keeping with and therefore harmful to the predominantly residential character of the area, contrary to the aims and objectives of LP Policy BAS BE12 set out above. The benefits of the development would not outweigh this harm, and consequently the appeal site is not a suitable location for a takeaway.

Other Matters

11. The appellant states that their intention is to only serve healthy food at the takeaway. However, this would fall outside of any planning controls and is therefore not a matter to which any weight can be attached in the determination of this appeal.

Conclusion

12. There are no material considerations to indicate this appeal should be determined other than in accordance with the development plan.
13. Therefore, for the reasons set out above, the appeal fails.

M Chalk

INSPECTOR