



Appeal Decision

Site visit made on 15 February 2022

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2022

Appeal Ref: APP/F5540/W/20/3263879

341 Vicarage Farm Road, HOUNSLOW, TW5 0DZ

- 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 Mrs Vijay Laxmi Kumar against the decision of London Borough of Hounslow.
 - The application Ref 01151/341/P3, dated 30 July 2020, was refused by notice dated 24 September 2020.
 - The development proposed is Change of use from retail shop (A1) to Hot food take away (A5) and installation of extraction flue at rear elevation.
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Decision

1. The appeal is allowed and planning permission is granted for Change of use from retail shop (A1) to Hot food take away (A5) and installation of extraction flue at rear elevation at 341 Vicarage Farm Road, HOUNSLOW, TW5 0DZ in accordance with the terms of the application, Ref 01151/341/P3, dated 30 July 2020 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (30/07/2020), Existing/proposed floor plans No. – 01 (30/07/2020), Existing/proposed elevation No. -02 (30/07/2020), Existing/proposed elevations No. -03 (30/07/2020).
 - 3) The cumulative measured or calculated rating level of noise emitted from the mechanical services plant including heating, ventilation and air conditioning (HVAC) shall be 10dB(A) below the existing background noise level, at all times that the mechanical system etc. operates. The measured or calculated noise levels shall be determined at the boundary of the nearest ground floor noise sensitive premises or one metre from the facade of the nearest first floor (or higher) noise sensitive premises, and in accordance to the latest British Standard 4142. An alternative position for assessment /measurement may be used to allow ease of access, this must be shown on a map and noise propagation calculations detailed to show how the design criteria is achieved.
 - 4) The plant shall be isolated on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.

- 5) Following installation of any mechanical services plant including heating, ventilation and air conditioning (HVAC) a post completion noise assessment shall be submitted to and approved in writing by the local planning authority which demonstrates the actual measured rating level of plant operating under normal conditions. All measurements shall be made in accordance with the methodology of BS4142: 2014 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. The post completion report shall be both completed and submitted to the local authority within 28 days of completion of the installation. The development shall be carried out in accordance with the approved details and retained as such permanently thereafter.

Main Issue

2. The main issue is the effect of the proposal on public health.

Reasons

3. The appeal site comprises a two-storey mixed-use property with a ground floor retail unit and residential accommodation above. The property is located within a busy neighbourhood centre and surrounded by a variety of commercial shops, businesses and hot food takeaways.
4. Policy E9 of The London Plan 2021 (The London Plan) states that development containing A5 hot food takeaway uses should not be permitted within 400 metres walking distance from the entrances and exits of an existing or proposed primary or secondary school. In this instance the Council state that numerous schools are within 400 metres of the site. Whilst I note that the appellant disputes this, during my site visit I noted several schools within easy walking distance of the site, including one located on the same road, and, as such, I consider that the proposal would fail to accord with Policy E9 of The London Plan in this regard.
5. However, the appeal site is located within a commercial area which contains a number of other hot food takeaways, some which are closer to one of the identified schools. I have been provided with no compelling evidence to suggest that the proposed hot food takeaway would offer a more persuasive or unhealthy choice for school children than any of the existing takeaways. Though the proposal would add an additional hot food takeaway in this location, given the context, I do not consider that this would cause harm to public health.
6. Consequently, the proposal would not be at odds with Policy C13 of the London Borough of Hounslow Local Plan 2015 – 2030 which seeks to make the borough an environment which encourages healthy living.
7. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In this case, though I have found conflict with Policy E9 of The London Plan, I consider that the specific material considerations with regard to the appeal site are such that they indicate that planning permission should be granted.

Conditions

8. In the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions proposed by the Council. Alongside the standard time limit condition, I have imposed a condition specifying the relevant plans as this provides certainty. In order to ensure that the development does not have an adverse effect on the living conditions of neighbouring residents I have imposed conditions in respect of plant and mechanical services to the development.

Conclusion

9. For the reasons given above I conclude that the appeal is allowed.

L J O'Brien

INSPECTOR