



Appeal Decision

Site visit made on 21 June 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2022

Appeal Ref: APP/D4635/W/22/3291552

132 Cannock Road, Wednesfield, Wolverhampton WV10 8PW

- 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 Jatinder Pawar against the decision of Wolverhampton City Council.
 - The application Ref 21/00876/FUL, dated 23 May 2021, was refused by notice dated 22 October 2021.
 - The development proposed was originally described as a change of use from former building society to A5 (Hot Food Takeaway).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Town and Country Planning (Use Classes) Order 1987 was amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. These regulations removed Class A5 such that a hot food takeaway is now a sui generis use, and this is reflected in the Council's decision notice. Where relevant, I have referred to the new Use Classes. However, the amendments have no material effect on my consideration of the planning merits of the proposal.

Main Issue

3. The main issue is the effect of the proposal on the vitality and viability of the Cannock Road (Scotlands) District Centre.

Reasons

4. The Cannock Road (Scotlands) District Centre (the 'District Centre') is generally focussed around a roundabout junction with most of the commercial premises being along Cannock Road and, north of the roundabout, Blackhalve Lane.
5. Policy SH10 of the Wolverhampton Unitary Development Plan (2006) states that non-retail units will not be permitted where the concentration of non-A1 uses comprises more than 30% of the total number of units in the centre. The explanatory text explains that this is because an excessive amount of non-retail uses can undermine the retail function of the local and district centres.
6. At my site visit I counted 42 units in the District Centre, excluding the appeal site, and 19 of these were non-A1 (now Class E (a)) uses. This amounts to comfortably in excess of 30% at present. As such, the proposed hot food

takeaway would represent an excess of non-retail uses and would conflict with policy SH10.

7. Furthermore, guideline HFT2 in the Council's Hot Food Takeaway Supplementary Planning Document (2018) (SPD) says that in centres with 40 units or more, no more than 10% of the total number of units should be occupied by hot food takeaways. Of the 42 units, I counted 7 hot food takeaways. Again, this is comfortably in excess of the 10% limit and hence the hot food takeaway proposed would be in breach of the SPD guidance.
8. I also note HFT2 guards against more than 10% of any individual frontage being in use for hot food takeaways. As there are only five units in the frontage within which the appeal site sits, the development would inevitably result in more than 10% of this frontage being used for hot food takeaways. The proposal would therefore fail to accord with this part of the guidance too.
9. Consequently, the development would result in an excessive amount of non-retail units in this shopping centre and, in particular, an excessive number of hot food takeaways. This would diminish the vitality and viability of the District Centre's retail function. The proposal would therefore fail to accord with policy SH10 and SPD guidance HFT2, as set out above.

Other Matters

10. Having this property in active use, and creating employment, would be preferable to its current vacant state. However this carries little weight as I have little substantive evidence to demonstrate that the unit could not, or would not be likely to, be used for retail in future.

Conclusion

11. The proposal conflicts with the development plan taken as a whole and there are no material considerations to suggest the decision should be made other than in accordance with the development plan.
12. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

Andrew Owen

INSPECTOR