
Appeal Decision

Site visit made on 12 July 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2022

Appeal Ref: APP/B0230/W/21/3289030

Car Park at Holland Road, Luton, LU3 1RB, 507850, 222657

- 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 Chaaye Paani Luton Ltd against the decision of Luton Borough Council.
 - The application Ref 21/00572/FUL, dated 22 April 2021, was refused by notice dated 6 August 2021.
 - The development proposed is described as "change of use from Sui Generis existing car park to Sui Generis Ancillary hot food takeaways (for the sale of hot food where consumption of that food is mostly undertaken off the premises) comprising the installation of 4 shipping containers."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Three containers were on site during my visit, two of which appeared open for business. I have determined the appeal on this basis.

Main Issues

3. The main issues in the determination of this appeal are:
 - The effect of the development on the living conditions of neighbouring residents; and,
 - The effect on the character and appearance of the area.

Reasons

Living conditions

4. Policy LLP38 of the Luton Local Plan 2011-2031 (the LP) requires, amongst other criteria, that developments demonstrate whether the scheme will result in any significant adverse effects on neighbouring development and adjoining land, including from noise.
5. The appellant has provided a noise report indicating that noise from the extractor system used on the container that is currently on site and closest to Holland Road will not cause disturbance to neighbouring residents given the level of background noise in the area. However, the noise report is focused only on that container, and there was also extractor ducting in place to the central container at the time of my visit. The noise report also does not account for the wider noise impacts of the use. Parking for twenty cars is provided on site, and

this volume of traffic close to the nearest houses, together with the associated noise from customers, beginning at 9am and continuing until 11pm every day is likely to cause significant disturbance to neighbouring occupiers.

6. The use of suitable extractors would limit the extent of fumes spreading towards the surrounding residential properties. If I were otherwise minded to allow the appeal a suitably-worded condition could be used to secure details of the extractors to ensure that they would be adequate for this location.
7. Nonetheless, it has not been demonstrated that noise arising from the use does not result in significant adverse effects on neighbouring development. The appeal proposal therefore conflicts with the requirement of Policy LLP38 set out above. It would also conflict with Policy LLP1 which identifies a presumption in favour of sustainable development and includes the intention to create high quality and healthy places.

Character and appearance

8. The appeal site is next to two rows of houses on Holland Road and Norman Road. There is a large office building on the opposite side of Leagrave Road, a car wash on the corner of Holland Road and Leagrave Road, and a commercial property on the opposite corner of Norman Road and Leagrave Road. The character of the area is therefore mixed, and the site was previously a vacant car park before the current use began.
9. The signs and extractor ducting on top of the containers are visible above the boundary hedge onto Leagrave Road, although the containers themselves are not visible. Each extractor duct is bare metal and an incongruous feature in the street scene, harmful even in the context of the surrounding commercial uses.
10. The signage is generally painted black and no adverts face directly onto Leagrave Road other than a small round sign in one corner of the site. These have limited visual impact in the wider area.
11. The containers are painted black and are single-storey structures set away from the neighbouring houses on Norman Road and Holland Road. There is very little visual impact from their presence as seen from these properties.
12. Overall, therefore, the development causes harm to the character of the Leagrave Road street scene due to the incongruous appearance of the exposed extractor units. The appeal proposal therefore conflicts with Policies LLP1 and LLP25 of the LP. These policies require, amongst other criteria, that development preserve or improve the character of the area and respond positively to the street scene.

Other Matters

13. The Council identified Policies LLP25 and LLP32 in its reason for refusal relating to neighbour living conditions. These policies relate to matters of design and the provision of parking, and it is not clear what conflict exists regarding this aspect of the appeal proposal. They are therefore not determinative in my consideration of neighbour living conditions.

Planning Balance

14. The appellant states that the development creates jobs in the local area. Different figures are given in the submitted evidence for the number of jobs

created, but even the lowest figure of 12 full-time and 4 part-time jobs is a benefit that weighs in favour of the appeal proposal.

15. However, this must be set against the impact on the living conditions of neighbouring residents from the ongoing use between 9am and 11pm every day. Little information has been provided to show that the noise generated from traffic and customers using the site would not cause unacceptable disturbance. In addition to this there is also harm to the Leagrave Road street scene. Taken together, these outweigh the benefits of the appeal proposal.
16. There are therefore no material considerations that indicate that this appeal should be determined otherwise than in accordance with the development plan.

Conclusion

17. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR