



Appeal Decision

Site visit made on 13 September 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2022

Appeal Ref: APP/A0665/W/22/3296922

63 Badger Bait, Little Neston, Neston CH64 4BU

- 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 Tom Gibson against the decision of Cheshire West and Chester Council.
 - The application Ref 21/04782/FUL, dated 26 November 2021, was refused by notice dated 17 March 2022.
 - The development proposed is described as the change of use from Sui Generis Betting Shop to Sui Generis Hot Food Takeaway.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from betting shop to hot food takeaway and installation of new extract ventilation to roof level, alteration to existing shopfront to relocate entrance door to the side elevation including formation of a new disabled access ramp, new roller shutter door and widening of existing opening to the left hand side to form a new bin store at 63 Badger Bait, Little Neston, Neston CH64 4BU in accordance with the terms of the application, Ref 21/04782/FUL, dated 26 November 2021, subject to the conditions in the attached schedule.

Preliminary Matter

2. The description in the banner heading above is taken from the planning application form and is the same description used on the appeal form. However, the appellant has confirmed that the description adopted by the Council on the planning decision notice is the most accurate. I have therefore used it within the formal decision.

Main Issue

3. The effect of the proposal on public health.

Reasons

4. The appeal site is a vacant unit located within an area designated as the Town Lane local retail centre and which comprises of a variety of uses. The site is also within close proximity to residential properties.
5. The Council's concerns relate primarily to the health characteristics of young people within the wider area and the proliferation of unhealthy food choices in close proximity to educational facilities.
6. The nearest educational facilities are primary schools. Children travelling to and from those schools are likely to be under the supervision of an adult and it

would be expected that parents or guardians would have a child's health in mind when selecting their food options.

7. Children of a secondary school age are likely to be unaccompanied at lunchtimes and after schools. However, the nearest secondary school is a considerable distance from the appeal site. The proposal is therefore likely to be a less attractive option for lunch and post-school visits compared to existing shops and services which are closer by and more accessible for the students.
8. I nevertheless acknowledge that the appeal site is within a residential area where, based on the provision of educational facilities, there is likely to be high numbers of young people. Therefore, this proposal would increase their access to unhealthy food options.
9. The evidence before me indicates that excess weight of children at year 6 in the locality is above the national average. I note that the Council has signed up to the Local Authority Declaration on Healthy Weight, showing a commitment to promote healthy weight and improve the health and wellbeing of the local population.
10. However, my attention has not been drawn to any development plan policies or guidance which stipulates what concentration of hot food takeaways would be appropriate or other restrictions such as locational requirements. The level of provision is therefore a matter of planning judgement.
11. Whilst this proposal may result in an additional unhealthy food option, the number of hot food takeaways within the local retail centre are limited to one other option. There are a range of other takeaways further afield in Neston and Parkgate however these are some distance away and likely to predominantly serve a different area. As such, there is not an excessive concentration of hot food takeaways in the immediate locality.
12. Furthermore, as acknowledged by the Council, the causes of obesity are complex and multifaceted. Many factors are likely to have a bearing on obesity levels, and the link between this health problem in this locality and the existing provision of hot food takeaways has not been convincingly demonstrated. Based on the evidence, I am not convinced that an additional takeaway would compound existing problems, encourage unhealthy eating or that it would be directly attributable to any material decline in the health of local residents, particularly children.
13. Accordingly, the proposal for a single hot food takeaway would not prejudice the ability of local residents to live a healthy lifestyle or significantly harm their health. Consequently, it would not conflict with Policy SOC5 of the Cheshire West and Chester Council Local Plan, Part One: Strategic Policies, Policy DM29 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies and Policies NNDS1 and NNR1 of the Neston Neighbourhood Plan 2010-2030 (March 2016). Collectively these policies seek, amongst other things, to ensure that developments do not have an adverse impact on local residents.

Other Matters

14. Careful consideration has been given to all third-party representations made in respect of this proposal. Although the appeal site is located close to residential properties, it is within a local retail centre. The opening hours requested by the

appellant are considered acceptable by the Council and, based on the site's location and the proposed use, I concur. The concerns relating to odours and noise could be satisfactorily addressed by suitably worded conditions.

15. The proposed plans include areas of refuse storage within the site and there are existing litter bins within the wider locality. This level of provision would be satisfactory to mitigate against vermin. There is no compelling evidence that the proposal would give rise to antisocial behaviour in the area.
16. The Council did not raise any concerns over the external alterations and the effect of the proposal on the character and appearance of the area. Given the currently neglected state of the appeal site and the level of alterations required, I see no reason to disagree.
17. The local highway authority did not raise any objections in relation to highway safety. Based on my inspection of the site and wider area, and taking into account the nature and size of the proposal and all of the evidence before me, I consider that the proposal would not significantly increase traffic or parking in this locality which would be to the detriment of highway users and local residents.

Conditions

18. The Council has suggested a number of conditions which the appellant has indicated their agreement to. I have undertaken some minor editing in the interests of precision and clarity. This has not affected their controlling elements.
19. Conditions specifying the time limit and plans are attached for certainty. To protect the living conditions of nearby residents, conditions are necessary to restrict the opening hours and require the submission of details of fume extraction.
20. A condition restricting the hours of demolition and construction is not necessary as the level of alterations to the appeal building are very limited and the works would be for a temporary period.

Conclusion

21. The proposal accords with the development plan thus the appeal is allowed.

H Ellison

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Drawing No: MP DWG 01106311 003, Block Plan Drawing No: MP DWG 01106311 004 and Proposed Plans and Elevations Drawing No: MP DWG 01106311 002.
3. The premises shall only be open for customers between the hours of 1000 – 2300.
4. Prior to commencement of the use hereby permitted, a scheme for the installation of equipment to control the emission of fumes and odour from the premises, including details of any noise levels and noise control, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the commencement of the use. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.