



Appeal Decision

Site visit made on 10 January 2022

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/W3005/W/22/3307025

32C Carsic Lane, SUTTON-IN-ASHFIELD, Nottinghamshire NG17 2AX

- 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 Ms Chantelle Dodsley against the decision of Ashfield District Council.
 - The application Ref V/2022/0513, dated 7 July 2022, was refused by notice dated 1 September 2022.
 - The development proposed is for a single-storey side extension to be operated as a cold food takeaway, including a home-based cold food catering business.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Ms Chantelle Dodsley against Ashfield District Council. This matter is the subject of a separate decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on highway safety with respect to the provision of off-street and on-street parking, and
 - The effect of the proposal on the living conditions of neighbouring occupiers with respect to noise and disturbance.

Reasons

Highway safety

4. The proposal includes two separate but linked activities, operating as both a takeaway and food production/distribution facility. It is not clear in evidence whether either element would be a primary activity. However, it is clear that take away sales, and customer attendance to the site, would be an important and integral part of the business.
5. Double yellow parking restrictions are in place around the junction of Davies Avenue and Carsic Lane. During my visit, in the mid-morning, I observed that parking along Carsic Lane was relatively congested with limited available spaces. Some spaces were available within Davies Avenue, Percival Crescent and other nearby residential roads, but parking availability was limited.

6. The Appellant anticipates that most customers would attend the facility on foot. However, they would be unable to manage how customers visit the site and many could arrive by car. Despite the Highway Authority raising no objection, it is unconvincing that the proposal would operate without causing parking pressure on local roads. Furthermore, the parking behaviour of customers could include anti-social activity due to their short stay nature. Such parking may take place in hazardous locations, especially on the corner, to the detriment of highway and pedestrian safety.
7. The Appellant states that the business would be operated by two part-time staff, one being the Appellant who resides at the property. The site could accommodate a further parking space. However, this would be reliant on collaborative use with the residential occupiers which could not be relied upon in perpetuity. Nevertheless, although on-street parking spaces seem to be limited, the street could accommodate parking space for one staff member without detriment to highway safety. As such, the two conditions offered by the Appellant, with respect to increased on-site parking provision and a travel plan, would not be necessary. However, the number of staff at the premises could increase over time. Such expansion could not be readily controlled by condition as the business would be intrinsically interlinked with the existing dwelling.
8. Deliveries related to the business would take the form of customers deliveries and the receipt of materials for the production of its food. No details have been provided to indicate the frequency of either type of delivery. The Council speculates that the proposal would require frequent fresh food resulting in daily deliveries and could result in inconsiderate/dangerous parking. Furthermore, it is not disclosed how many deliveries to customers are anticipated. A high volume of both inward and outward deliveries could put substantial further pressure on the limited available parking capacity in the area.
9. Consequently, the proposal would be contrary to policy ST1(b and c) of the 2002 Ashfield Local Plan Review (LP) and the Framework with respect to highway matters. These policies seek, among other matters, for development to not affect the safety of the environment, not adversely affect highway safety and for development to function well. The Council also finds that the proposal would conflict with policy ST1(a). This relates to schemes being refused if they conflict with other policies of the plan. However, as the Council has not identified any other policies that the proposal would be in conflict with, there is no conflict with this part of the policy.

Living conditions

10. The proposed use relates to a cold food takeaway and cold food catering business. Accordingly, it is recognised that the proposal would be unlikely to cause an odour nuisance to neighbouring occupiers. Furthermore, the area associated with the business would be relatively discrete in size and located away from the nearest neighbours. Therefore, noise generated by the use would be limited and not be significantly greater than that possible from the existing dwelling.
11. The Appellant's offered conditions, to limit the takeaway use and deliveries to daytime hours, would further reduce the capability of the business to cause noise disturbance. Therefore, whilst such control would not limit the number of customers or popularity of the business, conditions of this nature would limit the noise effect of the proposal on surrounding occupiers. Furthermore, the

proposed pedestrian access would be some distance from the nearest residential access.

12. The business would initially employ only two part-time staff, one of which currently lives on site. It is not clear how intensive the use would operate, how many customers would attend the site or how many deliveries would be required. Nevertheless, the adjacent roads are relatively busy and noise activity of traffic associated with the business would blend in with the area's urban context.
13. Consequently, the proposal would be unlikely to cause adverse harm to the living conditions of neighbouring occupiers in terms of noise and disturbance. Accordingly, the proposal would accord with LP policy ST1(b) and the Framework. These policies seek, among other matters, for development to not adversely affect the amenity of the environment and to create a high standard of amenity for existing users.

Other Matters

14. It is the Appellant's intention to provide healthy food choices to the local community and intends to apply for the Council's 'Healthy Options Takeaway' award. This intention is welcomed and garners support from the Framework where it seeks to support the development of healthy communities. I am also cognisant that support for the use has been given by interested parties. These identify the absence of healthy eating choices in the area, the absence of objection from the highway authority and the suitability of the use within this residential area.
15. The site is outside the town centre of Sutton-in-Ashfield which the Council identifies include a number of vacant premises. The Framework identifies that main town centre uses, including retail activity, should be located in town centres. However, the proposal is small scale and would provide convenience goods for day-to-day needs. Consequently, it would have no material impact on the vitality of the town centre.

Planning balance and conclusion

16. The proposal would provide a retail and food production service that would support healthy eating and would not harm the living conditions of neighbouring occupiers and is supported by some of the local community. However, it would be likely to generate significant customer and delivery activity resulting high parking demand and a substantially adverse impact on highway safety. Therefore, the merits of the case would not outweigh the conflict identified with policy.
17. For the above reasons, the proposal would not accord with the development plan and as such the appeal is dismissed.

Ben Plenty

INSPECTOR