



Appeal Decision

Site visit made on 14 November 2023

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2023

Appeal Ref: APP/M3835/W/23/3318460

102 Brighton Road, Selden, Worthing, West Sussex BN11 2EN

- 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 Jack, Pizza Rebellion Ltd, against the decision of Worthing Borough Council.
- The application Ref AWD/1241/22, dated 19 July 2022, was refused by notice dated 16 September 2022.
- The development proposed is described as Retrospective planning permission sought for installation of automated robotic pizza vending machine for temporary 12 month period.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. With the proposed development already installed, I was able to observe it on my site visit. I have dealt with the appeal on this basis.
3. Since the Council's decision on the planning application, the Worthing Local Plan (2003) and Core Strategy (2011) have been superseded by the adoption of the Worthing Borough Council Local Plan 2020 - 2036 (LP). For the purposes of decision making, the LP now forms part of the development plan. The main parties had the opportunity to comment on this in their appeal submissions.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the surrounding area; and the living conditions of adjoining occupiers, with particular regard to noise disturbance.

Reasons

Character and appearance

5. The appeal site is located in a prominent position on the corner where Brighton Road meets The Esplanade. The vending machine is positioned at the front of the forecourt of a modern office block, Premium House, which also includes car parking and a car wash and valeting service. Further along the same side of Brighton Road is a vehicle repair garage, while there is a shopping parade on the opposite side of The Esplanade. The site is therefore within a relatively commercial context, which also contains various signs, refuse bins, an ATM kiosk and seating, tables and lighting for food and beverage operations. However, the locality includes numerous residential properties in a variety of buildings, including some attractive townhouses, terraces and the developments of Esplanade and Clarence Courts. These positively contribute to the local townscape and provide the overriding sense of place for the surrounding area which, although containing built form with various

designs and a mixture of uses, reads as having a well-designed character and generally high-quality appearance. Due to their historical and architectural interest respectively, Esplanade and Clarence Courts are also identified as Buildings of Local Interest and defined by the LP as non-designated heritage assets.

6. The vending machine is conspicuously positioned and visible from numerous vantage points in the locality. Due to its utilitarian design and industrial, shipping-container appearance, it stands in stark contrast to its surroundings and forms an incongruous, intrusive feature in the locality. It therefore fails to respect or positively contribute to the streetscene and public realm. Neither its white painted finish and limited scale nor the site's coastal location lead me to a different conclusion. In coming to this view, I have also taken into account that the proposal is for a temporary 12 month period.
7. For the above reasons, I conclude that the proposed development harms the character and appearance of the surrounding area. I therefore find that it conflicts with LP Policies DM5, DM6 and DM24. Amongst other aspects, these set out that development should be of a high architectural and design quality, respect and enhance the character of the area, improve the public realm and respect the essential character of buildings of local interest. The proposal would also be inconsistent with the provisions in the National Planning Policy Framework (Framework) in relation to achieving well-designed places and conserving and enhancing the historic environment.
8. On the basis of the above and the proximity to the Buildings of Local Interest, the vending machine harms the significance of the non-designated heritage assets. Although the harm is in-direct, the proposed development nevertheless detracts from the settings of Esplanade and Clarence Courts. On a balanced judgement, as per the Framework, taking into account the scale of the harm and the buildings' significance, I find that the appeal proposal results in unacceptable and unjustified harm to the non-designated heritage assets.

Living conditions

9. The site is situated in a relatively busy area due to the various commercial premises in the locality and passing vehicles on the main coast road. However, there are also residential properties in the surrounding area and the site is situated relatively close to a number of them, including in particular Esplanade Court and on the opposite side of The Esplanade and Brighton Road. There is also a recent Prior Approval at Premium House for conversion from offices to residential accommodation.
10. The available evidence indicates that the nearby commercial uses, including takeaways, restaurants, bars, a vehicle repair garage and car wash for example, do not operate late into the night. It is likely that the coast road is also less busy during the night. It therefore seems to me that the area will, generally, be relatively quiet from late evening until early morning and that residents in the vicinity of the site could thus reasonably expect a quieter environment during this time. However, the vending machine can be used at any time of the day or night. Its proposed 24-hour operation could therefore attract people to the area during the quieter late-night hours and noise could be generated by customers waiting outside, on the street, for their pizzas to be produced. Given the proximity of the site to residential properties and the area being quieter at night, the appeal proposal could therefore result in unreasonable and, relative to the quieter night-time environment, significant noise disturbance at unsocial hours.

11. For the above reasons, I conclude that the proposed development would harm the living conditions of adjoining occupiers, with particular regard to noise disturbance. I therefore find that it conflicts with LP Policy DM5. Amongst other aspects, this sets out that development should not have an unacceptable impact on the occupiers of adjacent properties including in relation to noise. The proposal would also be inconsistent with the provisions in the Framework in relation to ensuring a high standard of amenity for existing users.

Other matters

12. I note the appellant's response to, and concerns with, the details provided by the Council regarding, for example, the unit's installation date, when it began operating and the timing of the appeal. However, these matters are not determinative as to the acceptability of the proposal, which I have determined on its merits.
13. It has been put to me that the design and position of the unit could have been changed and its trading hours restricted if the appellant had the opportunity to discuss and resolve the Council's concerns before the Decision Notice was issued. Since the unit was installed, the lighting has also been changed to turn off at 9.30pm in response to neighbours' concerns. Nevertheless, the proposed development is for the unit now installed and operating, and I have determined the appeal, including the design and operating hours applied for, on this basis.

Planning Balance

14. I have found that the proposed development would harm the character and appearance of the surrounding area and the living conditions of adjoining occupiers. The evidence before me and the conflict I have identified with various LP policies leads me to conclude that the proposed development, despite according with some local policies supporting economic and employment opportunities, conflicts with the development plan as a whole.
15. It is said that a temporary one-year permission would allow for the innovative project, by a small, independent start-up with limited funds, to be tested by the community and Council without committing to a permanent site and that any effects would be temporary. The appellant company's expansion also contributes to the local economy and the appeal proposal would support this, in-line with local policy and the Framework which, amongst other aspects, encourage and seek to support growth of the local (including visitor) economy, employment opportunities, and development (including hot food takeaways) that contribute to the vitality and viability of the area. In addition to the proposed development supporting employment, the vitality of the town and contributing to its night-time and visitor economy, it would also add to the variety of food offerings in the locality. However, given the scale of the development, the benefits would be relatively limited. Consequently, I find that the above matters outweigh neither the harm I have identified nor the conflict with the development plan.

Conclusion

16. The proposal conflicts with the development plan read as a whole and there are no material considerations which carry sufficient weight to warrant a decision otherwise than in accordance with it. The appeal is therefore dismissed.

T Gethin BA (Hons), MSc, MRTPI

INSPECTOR