



Appeal Decision

Site visit made on 10 October 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2023

Appeal Ref: APP/E3715/W/23/3319725

301 Clifton Road, Rugby, Warwickshire CV21 3QZ

- 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 Singh against the decision of Rugby Borough Council.
 - The application Ref R22/0171, dated 25 February 2022, was refused by notice dated 13 January 2023.
 - The development proposed is described as 'Proposed change of use of shop to a hot food takeaway, plus single storey rear/side extension. Relocation of side door'.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Singh against Rugby Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant has submitted a Parking Survey with the appeal which was undertaken in July 2021 as part of an earlier planning application for similar development¹ at the site. The Council and interested parties have had the opportunity to comment on the survey through the appeal process, and I do not consider that an injustice would occur by my acceptance of it. I have therefore considered the survey in the determination of the appeal.

Main Issue

4. The main issue is the effect of the proposed development on highway safety, having regard to parking provision.

Reasons

5. The appeal property comprises a vacant retail unit at ground floor and residential use above. It sits at the end of a row of residential and commercial properties including a convenience store, retail units, hairdresser, barbers and a public house, the Clifton Inn. The property is on the corner of Clifton Road, a busy road with a steady flow of traffic, and South Street, a residential street with terraced housing on both sides. Whinfield Recreation Ground is located on the opposite side of Clifton Road. There is a pedestrian crossing on Clifton Road close to its junction with South Street, a short distance from the front of the appeal property. Parking restrictions including zigzags and double yellow lines,

¹ Reference R21/0488

as well as bollards, which are interspersed with street trees, seek to prevent indiscriminate parking in the vicinity of the junction and crossing.

6. The appeal proposal relates to the change of use of the existing ground floor of the building to a hot food takeaway, including a single storey rear and side extension. The existing retail unit is currently vacant and does not benefit from any dedicated off-street parking spaces.
7. Policy D2 of the Rugby Borough Council Local Plan 2011-2031 adopted June 2019 (LP) sets out that planning permission will only be granted for development that incorporates adequate and satisfactory parking facilities including provision for motorcycles, cycles and for people with disabilities (or impaired mobility), based on the Borough Council's Standards included at Appendix 5 of the LP. The standards set out a clear distinction between car and cycle parking. They also refer to separate forms of retail uses, including takeaways, irrespective of changes to the Use Classes Order.
8. I note the appellant's view that the standards fail to consider changes to the operation of hot food takeaways post pandemic, which rely on deliveries rather than customer collection. However, there is no explanation as to how those standards ought to have changed to reflect current circumstances. As such, in the absence of any alternative standards based on robust evidence, I have no alternative than to apply the standards that are before me.
9. Notwithstanding this, the supporting text to Policy D2 recognises the need for flexibility, which is consistent with advice in the Planning Policy Framework. It sets out that the provision of car parking should be carefully balanced, with a need to provide sufficient car parking to meet needs, whilst taking account of factors such as public transport provision, opportunities for walking, and cycling, the need to revitalise an area, and the availability of public parking facilities.
10. I note the appellant's assertion that the catchment area or target market for the proposed takeaway is the immediate local residential area, which is within walking distance of the site. The appeal submissions also indicate that 2011 Census data show that nearly a quarter of local households do not own a car or van. The appellant would also offer a free delivery service which it is suggested would also reduce vehicular trips to the site. There is a bus stop nearby, however, I have not been provided with details of the frequency of the bus service. In any case, it is unlikely that customers would collect hot food by public transport given the inevitable waiting and journey times which would mean that food would be cold by the time they reached their destination.
11. Whilst some customers would walk or cycle, the appeal site is located on a main road and is therefore likely to attract trade from passing motorists. Furthermore, the way visitors travel to and from the development cannot be controlled and it is likely that some would come by car, even if walking distances are short and cycle spaces are provided. Moreover, a different operator with a different business model may not offer a delivery service that would reduce visitor numbers; indeed, the presence of a customer area and counter suggests the operation would be designed to attract visiting customers in person.

12. For these reasons, I find that the proposed hot food takeaway use would be likely to attract short-term demand for customer parking, that would peak in the evening.
13. The site is located within the low access zone. Having regard to the parking standards at Appendix 5 of the LP, given the gross internal floorspace of 77m², the takeaway would trigger a requirement for 15 or 16 car parking spaces, depending on whether the figure is rounded up or down.
14. The proposal would include the provision of 5 dedicated off street parking spaces in the car park to the rear of The Clifton Inn, which is owned by the appellant. The public house sits at the opposite end of the row, a short distance from the appeal site. Nevertheless, given the detached nature of the car park from the site, together with the short dwell time of visitors to a hot food takeaway, it is unlikely that customers, or indeed delivery vehicles would utilise these spaces for reasons of inconvenience. This arrangement would therefore not offer significant benefits in terms of parking over and above the current situation whereby the exiting retail unit has no parking provision.
15. The surrounding residential development is served by limited off-road parking facilities and despite car ownership levels, interested parties indicate that there is a significant demand for on-street parking, particularly during the evenings. Nevertheless, the appellants Parking Survey indicates the availability of a small number of on-street parking spaces on Clifton Road and South Street on both the Friday and Saturday evenings during the survey period. However, the number of spaces were limited, particularly during peak times during early evening, and fall significantly short of the standards set out in Appendix 5 of the LP.
16. As set out above, Policy D2 of the LP allows for flexibility in parking provision. I acknowledge that factors such as the extent of the catchment area, levels of car ownership locally and a home delivery service may influence the level of car journeys to the site to a degree. However, in the absence of any substantive evidence as to how residents would access services such as hot food takeaways in this area, a substantial relaxation of the standards, as proposed, cannot be justified.
17. The limited availability of on-street parking provision within the vicinity of the site, which would fall significantly below the standards, would be unlikely to meet demand, particularly during busy periods. Given the lack of adequate parking provision to serve the hot food takeaway, indiscriminate parking would be likely to occur, including drivers parking illegally at the junction, or in proximity to the pedestrian crossing, despite restrictions, both existing and proposed. Even if traffic speeds are not excessive in the vicinity of the site, and the surrounding highway network is not particularly dangerous, such haphazard parking would nevertheless result in a reduction in visibility for drivers as well as pedestrians. Consequently, based on the evidence before me, I find that the proposal would have an unacceptable effect on highway safety in relation to parking.
18. I recognise that an alternative retail use of the premises, which would not require planning permission, would generate a demand for parking, and that there is currently no dedicated parking provision to serve the unit. Nevertheless, the dwell time of customers visiting a retail unit would be likely to be longer than those visiting a takeaway, and trips would be more evenly

spread throughout the day. Moreover, there is nothing before me to demonstrate that a retail use would result in a similar demand for parking, particularly in the evening, when on-street parking opportunities would be more limited. As such, the effects of a retail use in terms of parking would be different to that of the proposed development, with indiscriminate parking more likely to occur in association with the proposed hot food takeaway use.

19. Whilst the Highway Authority raised no objection to the proposal, subject to the imposition of planning conditions, I have reached my own conclusions based on the evidence before me.
20. For the foregoing reasons I conclude that the proposed development would cause unacceptable harm to highway safety in relation to parking. Consequently, it would fail to accord with Policy D2 of the LP which requires development to incorporate adequate and satisfactory parking facilities.

Other Matters

21. The development would bring the currently vacant unit back into use, which would offer community and economic benefits. However, there is no substantive evidence before me to demonstrate that an alternative retail use could not be secured. Therefore, such benefits would not be significant enough to alter or outweigh my conclusions on the main issue.
22. I note that the appellant questioned whether the Council's planning officer should have prepared the appeal statement having previously recommended that permission was granted. However, I have determined the appeal solely on the planning merits of the case and arguments presented in support of the Council's refusal in the evidence, regardless of their authorship.

Conclusion

23. For the reasons set out above, the appeal is dismissed.

E Worley

INSPECTOR