



Appeal Decision

Site visit made on 17 November 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2023

Appeal Ref: APP/X4725/W/23/3322031

102 Doncaster Road, Wakefield WF1 5JF

- 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 A Zaraie against the decision of Wakefield Council.
 - The application Ref 21/02254/FUL, dated 8 September 2021, was refused by notice dated 16 November 2022.
 - The development is described as 'erection of hot takeaway food kiosk on existing raised area of convenience food store car park and to be operated only in conjunction with the store. Erection of 2 storey storage facility in the form of stacking containers in location of previously approved storage extension to food store'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I observed a takeaway kiosk and storage units were in place at my site inspection. They were in the general position of the proposed development and used for the same purposes. However, the external appearance did not fully correspond with the plans before me, particularly in terms of what appeared to be extract equipment to the roof and a further canopy to the car park side of the kiosk. There was also an additional steel container positioned adjacent to No 112 Doncaster Road which is not shown on the plans, which does not form part of the appeal.
3. Although I have dealt with the appeal on a retrospective basis poster advertisements are shown on the eastern and northern elevation of the kiosk plans and projecting signs on the roof and eastern elevation respectively. The Council has advised that advertisement consent was sought and refused for the installation of an illuminated and non-illuminated signage scheme under the Council's reference 21/02303/ADV. The appellant advises that the advertisement signs should therefore be ignored as these have not been appealed. Neither party has provided the details of this application and it is unclear which signs were considered. However, as advertisement consent is a separate consenting process principally set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, I have had regard to the signage as being indicative only.
4. The Government published a revised National Planning Policy Framework (the Framework) in December 2023, replacing the version published in September 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am

satisfied that no party's interests have been prejudiced by my taking this approach. Where I have referenced sections and paragraph numbers, these refer to those set out in the December 2023 revision of the Framework.

Main Issues

5. The main issues are the effect of the proposed development upon:
- the character and appearance of the area; and
 - the living conditions of the occupiers of nearby residential properties with particular regard to noise, odour and waste.

Reasons

Character and appearance

6. The appeal site is located in a corner position between Doncaster Road which is lined with commercial and residential buildings and Denmark Street which is predominantly residential in character. The site is roughly triangular in shape, and it converges to a point at the junction between these roads. The site is also slightly elevated above the road and footway. It has a long boundary along Doncaster Road and Denmark Street predominantly formed of open metal railing to both these roads. It contains a large pitched roof building set back and to the side of the site, which is used as a convenience store. The remaining land is used and delineated for parking. There are traditional brick two-storey dwellings adjacent to the appeal site at No 112 Doncaster Road and No 7 Denmark Street. Taller brick and render flats line the opposing side of Denmark Street at a development called Denmark Court.
7. The appeal development comprises a takeaway kiosk and two stacked containers. Both would be used in conjunction with the convenience store. The kiosk is mounted on a pre-existing plinth at the corner of the site, with its longer elevation running parallel with Doncaster Road behind the metal boundary railings. There are longer distant views of the kiosk in both directions along Doncaster Road and down Denmark Street towards the junction. The surrounding roads, and boundary railings also allow views across what is largely an open site. The appeal site is highly visible due to occupying a corner position, and the kiosk development due to the above factors would be similarly visible.
8. The kiosk is positioned forward of the building line of the convenience store facing Doncaster Road. Although the kiosk is not a large structure it ultimately stands in isolation in a prominent position at the road junction. The rationale for placing the kiosk on an existing plinth is understood and it is acknowledged this existing feature on its own is not high. However, the kiosk still occupies an exposed and raised position immediately adjacent to the footway. The lower boundary railings do not provide any mitigation for the kiosk, which ultimately appears as a conspicuous feature within the area.
9. The external colour of the kiosk is reflective of the main convenience store and a dark colour has been used on its finish, that being said it is distinctly separate and isolated from the convenience store. The colour and materials used on the kiosk contrast with those used on the residential and commercial buildings in the vicinity of the appeal site. This includes the predominantly brick flats at Denmark Court, the terraced dwellings adjacent to the appeal site.

10. There is a distinct contrast between the angular and industrial appearance of the metal kiosk with the traditional buildings with pitched roofs constructed from brick and render. Overall, because of the prominent and highly visible position the kiosk's materials appear particularly discordant in the context of those surrounding buildings.
11. The two storage containers are stacked on top of each other and positioned almost directly against the pavement edge of Denmark Street parallel with the front elevation of the adjacent No 7. Although views of these storage units are more constrained than the kiosk, nonetheless they are highly visible within the immediate area and from nearby residential properties opposite the site.
12. No 7 is a detached and narrow property and the storage units are wider than it. As the height of the storage units reaches the upper windows of No 7 and appear to abut it, they appear as a significant and discordant bulk when viewed directly against the front of this modest dwelling. The introduction of flat rectangular metal containers is very unsympathetic to the prevailing brick and render building materials of the area, to which the storage units bear no relation here. The industrial appearance of these large rectangular structures, whilst they can be appropriate in some settings, presents a blank oppressive and incongruous appearance to the streetscene at odds with the character and materials used in the area here.
13. It is appreciated that a flat roof extension was granted approval in a similar position to the storage units. However, no details of the proposed design or materials have been provided. In any event the submitted plans show it to be roughly half the height of the proposed development, and therefore of a differing scale overall. The rationale for a decorative scheme, whilst being an innovative approach, is not clearly explained. The drawings show a blue wave type appearance. Without further detail or context it is not considered that this would address the scale, adequately camouflage or remove the incongruity of the metal structures.
14. The development, even when seen in the context of the other commercial buildings in the wider area including the petrol station, both individually and combined are incongruous features and do not reinforce the existing character and appearance of the area which I have referred to above or relate positively to the local environment.
15. For the above reasons, the proposed development results in harm to the character and appearance of the area. The development is contrary to the Wakefield Local Development Framework, Development Policies 2009 (the DPD) Policy D9 and Core Strategy 2009 (the CS) Policy CS10, which insofar as they are relevant to this issue, seek to ensure development is high quality and makes a positive contribution to its locality. The development also conflicts with the objectives of achieving well-designed and beautiful places within section 12 of the Framework.

Living conditions

16. The Council has briefly outlined that it is concerned about the operational impacts including noise, odour and provision for waste primarily arising from the takeaway kiosk. Doncaster Road is a busy urban carriageway with bus routes leading to Wakefield city centre. The area is partly commercial including several takeaway businesses, food and drink establishments and a large petrol

station is also close by. The area is therefore unlikely to be tranquil during the weekday or weekends and could be subject to a variety of noise, odour and activity every day and evening. Furthermore the main use of the site is a convenience store which would cause some noise from the comings and goings of customers and associated operations.

17. There are many residential properties along Doncaster Road and residential streets leading off from it. The residential properties at Denmark Court have windows facing the appeal site. Several of the windows on Denmark Court are higher than the kiosk and only separated by the narrow width of that road. This road width is not a significant distance and therefore these residential properties are relatively close to the kiosk. I saw that the property at No 112 was screened by a container, which is not shown on the plans. However, as the kiosk occupies a prominent position a short distance from the aforementioned buildings there is the potential for the occupiers of nearby residential properties to be affected.
18. Although there are no highway safety matters arising, disturbance and noise can also be caused from vehicle use within the site. The cooking of food would be relatively open to the elements due to the serving hatch. The windows on some properties at Denmark Court would face the hatch. Despite the partly commercial environment it is therefore possible that some residents of Denmark Court and No 112 could be able to observe and hear associated activity which is likely to include customers arriving and leaving, ordering and waiting for food, food preparation, cooking, deliveries, waste disposal and cleaning. These activities could give rise to noise or odour.
19. The appellant advises that the target market would be store customers adding take away food and coffee to the main offer. The proposed use would operate between 09:00 and 22:00 Mondays to Saturdays and up to 21:00 on Sundays and Bank Holidays. Whether convenience store users would be the main customers or not, there is no guarantee that other customers would not arrive at the site to place the order and wait whilst their food is prepared or that other collections or deliveries would not be undertaken.
20. The Council has not clearly identified what information it requires to address the Environmental Health concerns. However neither has the appellant provided any specific evidence which would objectively establish the background noise levels of the area, or noise associated with the proposed development. It has not been fully explained why such information could not have been provided to support the proposal especially as it is clear from the submissions that the kiosk has previously been in use. Such information would ascertain whether the use as a takeaway and the aforementioned activities are likely to be significant in the context of the vibrancy of the locality and the existing use of the site as a convenience store. I note the Council's suggested condition to reduce the operational hours but given that these hours still run into evenings and on weekends there is no certainty that the noise at these times would be within acceptable parameters.
21. The appellant advises that the kiosk has a roof extract with a standard filtration system. No technical details or specification has been provided, nor have details of the type of food to be prepared. Although I saw that the signage advertised coffee, burgers and kebabs it is not clear how the filtration system would adequately deal with any cooked food. There is also no evidence to

explain whether the extract is of a sufficient height, or a satisfactory distance away from residential properties to enable the dissipation of odour or ensure that occupiers of residential properties would not experience excess levels of odour. Despite any assurances provided by the appellant on the ventilation and filtration of odours, in the absence of sufficient detailed information and the resulting uncertainty regarding the adequacy of any system, the issue of odour could also not be readily addressed by the imposition of a condition.

22. The appellant has stated that the kiosk has a separate waste storage facility located at the rear of the main store and serviced by a commercial refuse collector. A receptacle for packaging waste is located by the cabin for customer use. Given the extent of the site, it is possible that a scheme for the provision of adequate bin storage could be dealt with by a suitably worded planning condition.
23. Although the appellant has advised there were no complaints when operational, no details have been provided of the extent of the operation at that time, nor the food prepared. In any event, the absence of complaint or objection does not justify development which is found to be harmful.
24. For the above reasons, and in the absence of sufficient information to demonstrate to the contrary, the development would harm the living conditions of the occupiers of nearby residential properties with particular regard to noise and odour. The development is therefore contrary to Policies D9 and D20 of the DPD. Together these seek to ensure development does not have a significant detrimental impact on neighbouring residents. The proposal would also not fulfil the aims of the Framework, contained in section 12 where it seeks to ensure development promotes health and well-being with a high standard of amenity for existing users.

Other Matters

25. Together and amongst other things, paragraphs 97 a) and d)¹ and paragraphs 135 c) and e)² of the Framework refer to the need for decisions to support the sustainability of local communities and enable services to develop and modernise through innovative approaches and optimising the site. I acknowledge that the area is commercial, appeared to have several takeaways and food stores in close proximity to the appeal site, and that aspects of the development would fulfil the aims of these policies to optimise the potential of a site. However, whilst it would add to the range of facilities and services locally there is no evidence that the facility is required to support the sustainability of the local community. I therefore afford the contribution to supporting local facilities little weight.
26. It is noted that further jobs would be created, which falls in favour of the development. However, there is no substantive evidence presented in respect of supporting the continued viability of the convenience store or the need for storage space. There is no evidence before me to demonstrate the appeal development is the only means by which these uses could be realised. The overall scale of the development is small and economic benefits can therefore only be attributed moderate weight.

¹ September Framework paragraphs 93 a) and d)

² September 2023 Framework paragraphs 130 c) and e),

27. Although the appellant has raised concerns about the Council's handling of the planning application, this is not a matter in considering the planning merits of the proposal.

Balance and Conclusion

28. Whilst it is accepted that the development would provide some economic and social benefits, these do not outweigh the unacceptable harm I have found is caused by the kiosk and the storage containers to the character and appearance of the area and would be caused to the living conditions of neighbouring occupiers of residential properties.

29. For the reasons given above, I find that the proposal would conflict with the development plan and other relevant considerations do not indicate that a decision contrary to the development plan should be reached.

30. I therefore conclude the appeal should be dismissed.

K Williams

INSPECTOR