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# Appeal Decision

Site visit made on 20 February 2024

**by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 February 2024**

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**Appeal Ref: APP/X4725/W/23/3329935**

**Big Bites Pizza, 55 Larks Hill, Pontefract, West Yorkshire WF8 4LR**

- 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 Sulemans Fast Food Limited against the decision of Wakefield Metropolitan District Council.
  - The application Ref 22/02494/FUL, dated 17 November 2022, was refused by notice dated 4 August 2023.
  - The development proposed is the installation of extraction flue.
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## Decision

1. The appeal is dismissed.

## Procedural Matters and Background

2. The description of development in the banner heading above is taken from the planning application form with the exception of the word retrospective, as it is not an act of development.
3. During my visit I observed that a flue has been installed at the appeal site. The submitted plans indicate that it is proposed to enclose the flue with brick cladding. The proposal is therefore only partially retrospective. For clarity, I have assessed the development as proposed on the plans before me.
4. Planning permission was previously granted for the installation of a flue at the appeal site in 2019, subject to conditions<sup>1</sup>. Despite the appellant originally submitting an application to vary some of the conditions attached to this permission, the proposal was subsequently altered and determined by the Council as a full planning application<sup>2</sup>. On this basis I am satisfied that the appeal can be determined under section 78 of the Town and Country Planning Act 1990.
5. Planning law dictates that I am required to have regard to the development plan effective at the time of my decision. The Council formally adopted the Wakefield District Local Plan; Volume 1 Development Strategy, Strategic and Local Policies (Local Plan) on 24 January 2024. This now forms the statutory development plan for the area. It replaces the policies contained within the Wakefield Local Development Framework; Development Policies Document (2009), that were in effect at the time of the Council's decision. In addition, in December 2023, the Government published a revised National Planning Policy Framework (the Framework). The parties were given opportunity to comment

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<sup>1</sup> Planning application reference 19/00529/FUL.

<sup>2</sup> As evidenced by the planning application form signed 17 November 2022 and the Council's decision notice dated 4 August 2023.

on these matters during the appeal process, which I have had regard to in my decision.

### **Main Issue**

6. The main issue in relation to this appeal is the effect of the proposed development upon the character and appearance of the area.

### **Reasons**

7. The appeal site comprises a 2-storey end of terrace building with a hot food takeaway at ground floor and a residential flat above. Whilst there is a further commercial premises next door, it is surrounded by an estate of detached and semi-detached houses and bungalows with open frontages, such that it has a pleasant, suburban residential character.
8. The flue installed at the appeal site differs in location, size and sectional form to that which was previously granted planning permission (reference 19/00529/FUL)<sup>3</sup>. It has been painted red such that its presence is pronounced against the brown brickwork of the host building but which is now degrading and revealing the galvanised steel underneath. To mitigate its impact amended plans were submitted during the determination of the application to retain the flue, but with external brick cladding from ground to eaves level.
9. Measuring approximately 0.9m wide by 0.9m deep and by 7.65m high<sup>4</sup> the brick cladding would add uncharacteristic bulk, such that it would not have the typical proportions of a chimney breast and would appear out of scale with the modest size of the host building. Moreover, the proposed cladding would project above and dissect the eaves resulting in an awkward and poorly detailed relationship with the existing roof. Even if constructed from matching brick, the extraction flue would remain exposed at the top such that the cladding would emphasise its appearance, rather than harmonising with the host building.
10. Direct public views would be possible from Larks Hill in a northerly direction where the flue and cladding would be visible for some distance uphill, above the adjacent bungalows at No 51 and 53 Larks Hill. The proposal would also be prominent in unobstructed views from Stonegate Drive opposite, where it would appear as a bulky tower appended to the side of the host building, rather than as an integral part of the structure. As a consequence of this projecting and uncharacteristic feature, the proposal would result in harm to the character and appearance of the building and the wider residential street scene.
11. An interested party suggests that the flue as installed is better than a previous version. Whether or not that is the case, no details have been presented to me regarding any previous flue such that I could make a comparison. Regardless, I have assessed the proposal that is before me and with which I have found harm for the reasons given.
12. The proposed development would result in harm to the character and appearance of the area. It would therefore be contrary to Policies SP23 and LP56 of the Local Plan which seek to ensure that new development is of a high-

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<sup>3</sup> As indicated in the previously approved plans contained in the appellant's statement of case.

<sup>4</sup> As set out in the Council's officer report and is not disputed by the appellant.

quality design, that makes a positive contribution to the environment and amenity of its locality, objectives shared by section 12 of the Framework.

### **Other Matters**

13. Support from interested parties does not equate to a lack of harm and I have come to a different view regarding the impact of the development on the character and appearance of the area.
14. Interested parties have made reference to the impact of the proposal on the living conditions of neighbouring residents with regard to noise and disturbance and odour generated from the use of the existing flue. However, as the Council did not refuse planning permission on these grounds and the main issue provides a clear reason for dismissing the appeal, I am not required to consider these matters further.
15. Concerns relating to the way in which the planning application was dealt with by the Council are a matter for the parties.

### **Conclusion**

16. The proposed development would be contrary to the development plan taken as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal is dismissed.

*M Clowes*

INSPECTOR