



Appeal Decision

Site visits made on 3 and 4 January 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2024

Appeal Ref: APP/R0335/W/23/3325921

208 High Street, Crowthorne RG45 7AP

- 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 DPSK Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 22/00644/FUL, dated 22 July 2022, was refused by notice dated 5 May 2023.
 - The development proposed is change of use from bank (Class E) to hot food takeaway (Sui Generis); associated extraction/plant equipment and external alterations.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by DPSK Ltd against Bracknell Forest Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. My decision is made in the context of the revised Framework. I am satisfied that no interested party has been prejudiced by my approach.
4. Following determination of the planning application the appellant has produced additional evidence in the form of revised plans showing changes to the cycle store; additional priority signage and bollards. The Council have had the opportunity to comment on the information. Having regard to the Holborn Studios judgement¹ I am satisfied that no interested party has been prejudiced by my approach.

Main Issue

5. The main issue is the effect of the proposed development upon the safe and efficient operation of the local highway network.

Reasons

6. The appeal site comprises a vacant two storey building located within Crowthorne town centre, formerly occupied by a bank. The property is set back

¹ 1 Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

- from the road with a layby to front. A side access, wide enough for a single vehicle, leading to a rear car park, is located to the north of the building.
7. The town centre is characterised by retail and commercial uses. Public car parks are located within a short distance of the site on Heath Hill Road South and at the Morgan Recreation Ground.
 8. The High Street is subject to highway restrictions in the form of double yellow lines, which also extend into a number of side roads, and zig zag markings for a nearby zebra-crossing. Kerbside loading and unloading along the High Street is permitted at certain times of the day.
 9. The proposed development is for the change of use of the premises to a hot food takeaway to be operated by Dominos pizza. The unit would offer customer collections and a delivery service operated by inhouse delivery drivers using cars and e-bikes. No on-site customer parking is proposed.
 10. The rear car park is served by an existing access leading off the High Street wide enough for a single vehicle. Whilst staff walking to the premises would use the main entrance on the High Street the proposed development would still lead to members of staff either cycling or driving in both directions along the access.
 11. Signage is proposed at the entrance informing vehicles entering the site to give way to vehicles exiting the site and staff would be aware of the arrangements following training. Staff either cycling or driving would have to travel only a short distance along the route with a clear view of the access and any oncoming traffic. Given this short distance and that vehicles are likely to be travelling at very low speeds along it, it is unlikely that users would be unduly inconvenienced or endangered on account of its width or any increased use. I am also mindful that vehicular activity would have taken place along this access when the premises was operating as a bank.
 12. The Council's Supplementary Planning Document – Parking Standards (SPD) sets out a requirement of 32 car parking spaces for a hot food takeaway when taking into consideration the cumulative floor area of both the ground and first floor. The development proposes 7 spaces for vehicles, located at the rear of the premises, therefore overall, it is deficient of parking spaces for both staff and customers. Even when considering the ground floor in isolation, which I note is the main driver for the number of staff employed, it would be deficient of spaces by some 11 spaces.
 13. There is some uncertainty as to whether the spaces to the rear would be for in-store staff only or both in-store staff and delivery drivers. Given the nature of the use and the relatively short dwell time of delivery drivers collecting orders it is likely that the layby in front of the building would be used, particularly during peak periods. On this basis it is likely that the rear parking area would be used by in-store staff.
 14. There are surfaced footpaths extending continuously along both sides of the High Street with footpaths extending into the side roads which provide a suitable walking route between the town centre and surrounding residential areas. Albeit not regular the site is accessible with bus stops connecting the site to local towns and villages including Bracknell and Wokingham.

15. I also note that some members of staff would car share or would be dropped off and picked up by family members at the start and end of their shift, thereby reducing the demand for staff parking spaces. Consequently, staff would not be overly reliant on private vehicles and would be able to access the site on foot, by cycling and by public transport.
16. The appellant advises that store collections comprise approximately 40% of overall trade. Irrespective of the different predicted trip generation figures provided by both main parties the proposed development would generate vehicle movements and increased short term parking demand with most customers visiting the premises in the evenings and at weekends.
17. As no on-site customer parking would be provided an important consideration is whether practical alternative parking options are available locally. I have considered the appellant's car parking survey which indicates spare parking capacity locally during the peak trading periods. At the time of my visits on a weekday evening and morning I observed high demand for spaces on Heath Hill Road South and Church Street with very little spare capacity. Whilst I acknowledge that this is a snapshot in time, based on my observations and the evidence before me, it is evident that the availability of on street parking along these roads is at a premium in the area both during the day and at night. As such, there is no certainty that customers would find a space when collecting their order.
18. I observed reasonable levels of capacity in the nearby car parks and whilst some customers may be content to park in them, not everyone will, and customers are more likely to park as close as possible to the premises to collect their order, particularly during the hours of darkness or inclement weather. The limited availability of on street parking within the vicinity of the site, combined with the absence of customer parking on site would likely lead to customers parking as close as possible to the premises resulting in instances of inconsiderate and indiscriminate parking taking place in the area, despite the presence of traffic restrictions along the High Street.
19. I am not persuaded that the presence of bollards and the installation of signage would act as a deterrent particularly given the relatively short nature of the stay to collect an order. Inconsiderate and indiscriminate parking would hinder the use of the pavements and road resulting in vehicles manoeuvring close to oncoming traffic. In my judgement, the adverse impact of the proposed development upon highway safety would be severe.
20. The SPD and Policy M9 of the Bracknell Forest Borough Local Plan (2002) (LP) both allow a flexible approach towards the application of parking standards where it can be justified. I acknowledge that Crowthorne town centre is densely built up and it is unlikely that any existing, suitable and available premises would be able to achieve a full complement of car parking spaces in line with the SPD. However, in this particular case taking into account the increased demand for short term parking in the area and limited off-street parking options does not justify a substantial relaxation of the standards.
21. As set out earlier as delivery drivers using cars and e-bikes would most likely congregate within the layby whilst waiting to collect orders. The proposal would generate 8 2-way trips for both cars and e-bikes during the peak period. These vehicle movements, in the absence of evidence to the contrary, would result in

vehicles waiting on the road or on the pavement in the event the layby was fully occupied hindering the safe and efficient operation of the road.

22. Refuse collection would take place kerbside and although loading and unloading is permitted at certain times of the day, a refuse wagon waiting for bins to be rolled to it would block the High Street and given its busy nature would quickly lead to congestion unduly affecting the efficient operation of the local highway.
23. Deliveries would occur up to 3 times a week and last between 30-45 minutes serviced by a Mercedes Sprinter type van. I have paid regard to the submitted swept-path diagrams, however, it is evident that a van of that size would not be able to enter and exit the layby without making irregular movements. The position of the bollards would be an additional obstacle making manoeuvring more difficult.
24. To address this the appellant suggests that service vehicles are centrally managed and therefore the vehicle type, timings and travel routes could be controlled including ensuring delivery vehicles only turn left into the layby.
25. Whilst in theory this could be satisfactory, I have concerns in respect of practicality. If a delivery was due and staff were otherwise engaged and not available to lower bollards the delivery vehicle would have to wait on the road. Similarly, if vehicles were delayed due to traffic; held up at previous stores or diverted on account of roadworks there is no certainty that vehicles would only turn left into the site. In such instances servicing the premises would require vehicles to make irregular manoeuvres or swing onto the opposite side of the road leading to conflict with other vehicles on this busy road.
26. In respect of conditions, these must be fairly and reasonably related to a planning purpose and to the development and must not be so unreasonable that no reasonable planning authority would impose it. Having regard to the suggested condition and the requirements of a Parking, Delivery and Servicing Management Plan, in the context of the Framework and the Planning Practice Guidance, I am of the view that it would place a disproportionate burden upon the appellant, reliance upon the actions of third parties, beyond the reasonable influence and control of the applicant and could undermine delivery of the scheme.
27. For example, there is no certainty that visibility splays that would be acceptable to the Council could be achieved, thereby undermining delivery of the scheme. Restricting the size of the delivery vehicle and its direction of travel would not be reasonable and I have reservations that it could be enforced. The collection of refuse is dependant on the actions of staff as well as a third-party operator beyond the control of the appellant. As such, I am not satisfied that the condition as drafted would be reasonable nor enforceable.
28. I acknowledge that the enforcement of parking restrictions is a separate matter for either the council or police. However, this does not justify a scheme that I have found to be harmful.
29. Consequently, I conclude that the proposed development would adversely affect the safe and efficient operation of the local highway network contrary to Policy CS23 of the Bracknell Forest Borough Core Strategy Development Plan Document (2008) and saved LP Policies M5, M6, M9 and EN20(vii) which, amongst other things, require developments to provide adequate provision for

off-street servicing; satisfactory parking provision and to maintain the amenity of the adjoining area.

30. It would also be contrary to paragraphs 108, 114, 115 and 116 of the Framework which, amongst other things, require proposals to address the potential impacts of development on transport networks; ensure that safe and suitable access can be achieved for all users; prevent developments that would have an unacceptable impact on highway safety; create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, and respond to local character and design standards and allow for the efficient delivery of goods, and access by service vehicles.

Other Matters

31. In terms of the fallback position the property could be occupied by a number of alternative uses which would also generate parking demand locally. However, the time that customers would spend in a retail unit, restaurant, bank or gymnasium would be longer than those visiting a takeaway and thus patrons would park more considerably. It is also likely that trips would be spread out throughout the day. Furthermore, based on the evidence before me, I am not persuaded that the impact of these uses on the local highway network would be similar or materially worse than the development proposed. As such, I give this limited weight in coming to my decision.
32. I acknowledge that the proposed development would bring a vacant unit back into use contributing to the vitality and viability of the town centre. However, this would not outweigh the harm that I have identified in relation to the main issue.
33. My attention has been drawn to other appeal decisions for hot food takeaways. Whilst I have paid regard to them from the details submitted, it appears that the merits and circumstances of those schemes are materially different to the appeal proposal before me. In any case, every appeal must be considered on its own merits. These decisions do not lead me to reach a different conclusion on the matter.

Conclusion

34. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR