



Appeal Decision

Site visit made on 4 June 2024

by C Skelly BA (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2024

Appeal Ref: APP/E5330/W/23/3333437

98A Plumstead High Street, Greenwich, Plumstead SE18 1SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr B Chipalu (Milsha Tapari Momo Ltd) against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref is 23/2715/F.
 - The development proposed is change of Use Class E (a) to Sui Generis – Hot Food Takeaways
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Whilst a revised version of the National Planning Policy Framework was published in December 2023 (the Framework), the sections relevant to this appeal remain unchanged. Therefore, the principles that apply to this decision remain the same.

Main Issue

3. Whether the proposed use as a hot-food takeaway is acceptable having regard to the aims of the strategic development plan with regards to reducing childhood obesity.

Reasons

4. The appeal site is located a short walk from the station on Plumstead High Street. The local area has numerous town centre uses including a number of fast-food restaurants and takeaways. Residential areas are located beyond the high street and the primary schools of Conway and Bannockburn are both located within 400m walking distance from the appeal site.
5. The appeal site is a two-storey building which sits between single storey properties making it prominent within the street scene. There is a chimney on the rear corner of the property which protrudes away from the main elevation and runs higher than the roof level. The rear of the property comprises a single storey element and has a rear access. There are a number of extraction units on the rear roofs of neighbouring properties.
6. The appeal site is located within the district centre boundaries of Plumstead and it is designated in the Royal Borough of Greenwich Core Strategy with Detailed Policies (2014) as a secondary shop frontage. The property has

recently been used as a food store, but this business has relocated to a premises on the opposite side of the high street.

7. The proposal is for the change of use of the premises to a hot food takeaway (Sui Generis). The rear part of the property would provide the kitchen with the front part being reconfigured to provide a takeaway service. An extraction fan would be installed to the rear elevation, which would run across the storage area and up the eaves height of the roof.
8. Criteria D of Policy E9 of the London Plan (2021) (LP) says proposals for hot food takeaways should not be permitted where they are located within 400 metres walking distance from the entrances and exits of primary schools. The policy goes on to say that where Boroughs wish to set a locally determined boundary from schools that this should be sufficiently justified. The Council do not have locally specific policies in this regard and therefore I have considered the proposal on the basis of the LP policy's 400m walking distance criteria.
9. There are two primary schools within 400m of the appeal site. However, I note the appellant states the target audience for the proposed takeaway are the commuters using Plumstead Train Station. Whilst commuters are likely to be patrons of the premises, there would be nothing preventing pupils from the nearby schools purchasing food from outlets at this location. Therefore, given the close proximity of those schools, it is probable that a proportion of customers would be local school children.
10. The Council have not provided any specific information in relation to health matters in the local area, however the supporting text of Policy E9 of the LP refers to 38% of Year 6 pupils in London being overweight or obese. There is evidence that regular consumption of energy-dense food from hot food takeaways is associated with weight gain, and that takeaway food is appealing to children. It goes on to say that health experts recommend restricting the proliferation of hot food takeaways particularly around schools in order to create a healthier food environment. There is no counter evidence before me to dispute the negative health effects relating to this type of use.
11. The proposed takeaway will serve momos, which are described by the appellant as a type of steamed filled dumpling. Although the product proposed for sale may not be considered to be "unhealthy", while also complying with requirement of the "Healthier Catering Commitment", it falls under a wider use class which would support a range of different operators selling types of food with varying degrees of health benefits. Moreover, hot food takeaways generally sell foods that are high in calories, fat, salt and sugar and low in fibre.
12. A mechanism to control future operators has been considered. However, Planning Practice Guidance says that a condition restricting the use of the building to a company is inappropriate because its shares could be transferred to other persons without affecting the legal personality of the company. Although I note the nutritional information provided with the appeal, the permission would apply to any type of takeaway and cannot be controlled by the planning system.
13. Taking the above into account, the location of the proposed use to nearby primary schools together with the evidence relating to weight and obesity

levels in the city, the proposed use would potentially encourage the increased consumption of foods that would harm the health of local children.

14. The proposed development would not harm the character and appearance of the host property or the local area and would have some limited positive impact on the local economy. I also note that the proposal is not considered to cause harm to neighbouring residents in respect of odour or noise, nor would have an unacceptable impact on the environment of the area.
15. Nevertheless, the proposed change of use to a hot-food takeaway in this location is inappropriate as it is located within 400m of two primary schools and therefore would undermine the aims of the strategic development plan with regards to reducing childhood obesity. As such the proposal would conflict with Policy E9 of the LP which seeks to create a healthy food environment.
16. The proposal would also be contrary to paragraph 96 of the Framework which seeks to promote healthy communities.

Conclusion

17. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
18. For the reasons given above the appeal should be dismissed.

C Skelly

INSPECTOR