



Appeal Decision

Site visit made on 10 July 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Appeal Ref: APP/K3605/W/23/3330164

154 Portsmouth Road, Cobham, Surrey KT11 1HX

- 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 Conor Hadfield of The Dough Shack Ltd against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/0015.
 - The development proposed is part change of use to hot food takeaway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the decision notice as this accurately and succinctly describes the development proposed.

Main Issues

3. The main issues are the effect of the proposed development on the living conditions of nearby occupiers with particular regard to odour, noise and disturbance, and the effect on highway safety with particular regard to access.

Reasons

Living Conditions

4. 154 Portsmouth Road is a retail shop with hardsurfaced forecourt in a mainly residential area. It directly adjoins 152 Portsmouth Road, a residential property which has windows to its front elevation, close to the boundary between the two properties. The hot food takeaway van would be located on the forecourt.
5. The proposed use would generate smells from the wood fired oven, food preparation and cooking. A silent electric generator would be used, nevertheless, there would be noise from customers. The comings and goings of customers would be more frequent than the surrounding residential uses. The van has been trading at this site and representations have been received which confirm that neighbours have been disrupted by smells and noise and disturbance from visitors.
6. Given the noise and odour generated and the proximity to residential properties, the proposed development would result in unacceptable effects on the living conditions of nearby residential occupiers.

7. The proposed use would be from 5.30-8.30pm on Tuesday and 5pm-9pm on Friday, which would limit the amount of time that such disruption was experienced. Nevertheless, there would be unacceptable disturbance to neighbours during these times. As such the mitigation through the proposed operating hours would not overcome the harm identified.
8. Therefore, the proposed development would have a harmful effect on the living conditions of nearby occupiers with particular regard to odour, noise and disturbance. Consequently, it would be contrary to Policy DM5 of the Development Management Plan 2015 (DMP) which expects that development that may result in noise or odour emissions will mitigate the effect on existing residents.
9. Policy DM2 mainly relates to high quality design in terms of character and appearance and amenity specifically relating to outlook, light and privacy. Therefore, the policy set out above is more relevant to this main issue.

Highway Safety

10. The site is located on the A307 Portsmouth Road, on the corner of Copse Road. The forecourt of 154 Portsmouth Road is hardstanding, however there is no dropped kerb. The business has been operating with the van parking on this forecourt and a number of properties on this side of the road have hardsurfaced front gardens, in use as car parking, without dropped kerbs.
11. Due to the size of the forecourt the van would need to enter or exit the site in a reverse gear. This would involve manoeuvring across the pavement and main road, close to a junction. Even though the kerb is shallow in this location it is still raised, and as such these manoeuvres would be more difficult.
12. Even considering that accidents have not yet occurred, the proposed development would result in vehicle movements that would create conflict between those parking at this site and other road users. This would increase the risk to pedestrians and drivers. It would also harmfully effect the free flow of traffic. Therefore, the proposed development would not provide a safe and suitable access to the site and would lead to serious harm to highway safety.
13. Therefore, the proposed development would have a harmful effect on highway safety with particular regard to access. As such, in this regard, it would be contrary to Policy DM7 of the DMP which requires that access to and from the highway should be safe.

Other Matters

14. The proposed development would provide economic benefits, providing a location for this business to operate and a service for their customers. However, considering the scale of the proposed development, whilst these are important benefits for this business, any wider public benefits are modest.
15. On the other hand, the proposed development would result in harm to the living conditions of neighbouring occupiers and serious harm to highway safety. Therefore, these modest benefits would not outweigh the serious harm identified above.

Conclusion

16. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR

