



Appeal Decision

Site visit made on 31 July 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal Ref: APP/F5540/W/23/3328623

1-3 Duke of Cambridge House, Kingsley Road, Hounslow TW3 1PA

- 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 G Khan against the decision of the Council of the London Borough of Hounslow.
 - The application Ref is 00667/1-3/P8.
 - The development proposed is change of use of shop (class E) to hot food takeaway (Sui Generis).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr G Khan against the Council of the London Borough of Hounslow. This application is the subject of a separate Decision.

Preliminary Matter

3. The application form describes the proposal as 'Change of use of shop to restaurant/café.' Following correspondence between the main parties this description was amended to reflect the intended proposed use for hot food takeaway (Sui Generis). Therefore, my Decision reflects this.

Background and Main Issue

4. The Council's second and third reasons for refusal relate to an extraction flue which is shown on the proposed drawings. However, the description of the proposal on the application form does not refer to the extraction flue. Also, the position of this extraction flue appears to be outside the appeal site boundary as edged red on the submitted drawings.
5. During the application stage in response to a request from the Council to provide additional details in relation to the extraction flue, the appellant confirmed in writing that the application does not propose any extraction units. Subsequently, the Council advised the appellant via email of a new description of the proposal which did not refer to the extraction flue.
6. Although it is unclear why the extraction flue is shown on the submitted drawings, in light of the above, I accept the appellant's submissions that this does not form part of the proposed scheme. As such, the second and third

reasons for refusal are not relevant to the application or this appeal and do not form part of my main issues.

7. Accordingly, the main issue is whether the proposed change of use would promote health and well-being.

Reasons

8. The appeal property comprises a single storey commercial unit, located in Hounslow Town Centre at the end of an undesignated shopping parade.
9. The proposal seeks planning consent for a hot food takeaway use. Policy E9 of the London Plan is clear that development proposals containing A5 hot food takeaway uses should not be permitted where these are within 400 metres walking distance from the entrances and exits of an existing or proposed primary or secondary school.
10. The supporting text to the above Policy says: "hot food takeaways generally sell food that is high in calories, fat, salt and sugar, and low in fibre, fruit and vegetables. 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 is recognised that the causes of obesity are complex and the result of a number of factors, and that a broad package of measures is required to reduce childhood obesity within London. A wide range of health experts recommend restricting the proliferation of hot food takeaways, particularly around schools, in order to help create a healthier food environment."
11. On the information before me, the appeal site is located in the Hounslow East Ward, where 17-23% of year six pupils are classed as obese and 41% of year six children have excess weight. Moreover, and as I observed during my visit, the appeal site is less than 400m of two schools, Kingsley Academy and Hounslow Town Primary School.
12. The appellant has referred to a planning permission (Ref. 00667/1-3(U1-2)/P1) for the change of use of the appeal property from an office to restaurant/cafe to facilitate enlargement of the existing restaurant/cafe at the adjoining unit. Whilst this permission included a takeaway service, this would only have been ancillary to the restaurant. In my view, this is different to the proposal which is for a separate planning unit dedicated to a hot food takeaway. Irrespective, on the most recent information before me, this permission was not implemented and has lapsed. As such, I attach limited weight to this.
13. The appellant asserts that not all takeaway services are unhealthy, but has not confirmed what healthy food alternative is to be provided at the proposed hot food takeaway. Even if I were to accept that the appellant intends to offer healthy food options, there is no certainty that this would be the case in perpetuity.
14. It has been suggested that the opening hours could be controlled by a planning condition to ensure that the proposed hot food takeaway is not open during the school lunch and home time hours. However, this would be difficult to enforce and food purchases could be made outside these times by a parent/carers for a child. I also have insufficient information as to whether the Council's licensing

provisions would be able to effectively control the type of food sold at the proposed hot food takeaway.

15. Notwithstanding the above, the proposal would result in the creation of a further hot food takeaway in close proximity of two schools and other hot food takeaways. Thereby, further contributing to the surrounding unhealthy food environment.
16. The Council also alleges that the proposal would result in a concentration of non-retail uses within this part of Hounslow Town Centre. However, I have no empirical evidence to support this. Therefore, I cannot be certain that the proposal would be contrary to Hounslow Local Plan Policies TC1 and TC4. Together, these policies consider the cumulative impact of proposals on the vitality and vibrancy of town centres and the amenity of local residents, including avoiding the over-concentration of non-retail uses such as hot food takeaways.
17. Nonetheless, the proposal would introduce a hot food takeaway near to existing schools in an area with a high level of childhood obesity. As such, and in the absence of any substantive contrary evidence, the proposal would result in the increased availability of unhealthy food choices, encouraging unhealthy lifestyles and failing to promote access to healthier food. Therefore, failing to promote health and well-being.
18. As such, the proposal conflicts with Policy E9 of the London Plan and would also be contrary to London Plan Policy GC3 which seeks to improve Londoners' health and reduce health inequalities, by amongst other things, seeking to create a healthy food environment by increasing the availability of healthy food and restricting unhealthy options. The proposal would also be contrary to similar aims of Policy C13 of the Hounslow Local Plan, which expects development proposals to contribute to the health and well-being of the local community where possible.

Other Matters

19. The proposal would support financial investment to ensure the long-term future of the appeal property. This would secure existing jobs and create new job opportunities due to the expansion of a business. As such, there would be some social and economic benefits arising from the proposal. However, given the small scale of the appeal property, such benefits are likely to be limited and are not sufficient to outweigh the harm and conflict with the development plan I have already identified.

Conclusion

20. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR