

Appeal Decision

Site visit made on 3 September 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 17 September 2024

Appeal Ref: APP/R0335/W/24/3338962

2 Warren Row, Ascot SL5 8HN

- 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 Satpal Singh Madhan against the decision of Bracknell Forest Borough Council.
 - The application Ref is 22/00857/FUL.
 - The development proposed is the change of use from hair salon (Class E) to hot food takeaway (sui generis) with associated extractor flues.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from hair salon (Class E) to hot food takeaway (sui generis) with associated extractor flues at 2 Warren Row, Ascot SL5 8HN in accordance with the terms of the application, Ref 22/00857/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos: 2022/078-03 Rev A; 2022/078-04 Rev A; 2022/078-05 Rev A; 2022/078-06; and 2022/078-07.
 - 3) The development shall not be brought into use until a Parking, Delivery and Servicing Management Plan has been submitted to and approved in writing by the Local Planning Authority. The premises shall only be occupied or used for the approved development whilst the approved Parking, Delivery and Servicing Management Plan is in operation.
 - 4) The premises shall not be occupied or used until a scheme has been submitted to and approved in writing by the Local Planning Authority and thereafter implemented for covered and secure cycle parking spaces along with step-free, safe and suitable access to the cycle parking location. The cycle parking facilities shall thereafter be retained.
 - 5) Deliveries, including collection of waste shall be taken at or despatched from the site only between 0700 and 2000 hours.
 - 6) The premises shall not be occupied or used until the odour mitigation measures, as set out in the odour risk assessment dated 17 October

2022 prepared by Air Quality Assessments Ltd have been implemented. The odour mitigation measures shall be maintained and retained for the duration of the use hereby permitted.

- 7) The premises shall only be open for customers between the following hours:
1100 – 2230 Mondays - Saturdays
1100 – 2100 Sundays and on Bank or Public Holidays.

Preliminary Matters

2. Since the application subject of this appeal was refused, the Council has adopted a new local plan, the Bracknell Forest Local Plan 2020-2037 adopted 19 March 2024 (BFLP). The Council helpfully set out the differences between the previous and current policies in their appeal statement and I have determined this appeal on the basis of the updated BFLP.

Main Issue

3. The main issue is the effect of the proposal on highway safety due to parking provision.

Reasons

4. The appeal property comprises a currently closed hair salon in a purpose-built parade of shops. The proposal would involve the change of use from the current use to a hot food takeaway.
5. Although there is currently a café in the parade, based on the available evidence this does not offer a hot food takeaway service. The Council accept that the proposal could add to the variety of food on offer in the local parade without leading to a proliferation of non-class E uses, the proposal would not result in a blank frontage and would generate a footfall and vitality that could benefit other retailers and other parts of the local economy into the evening. On that basis they set out that the proposed development is considered acceptable in principle subject to no adverse impact on the amenity of neighbouring occupiers and highway safety. I agree with that analysis.
6. I turn first to consider highway safety. There are a number of designated car parking spaces specifically to serve the shopping parade. At the time of my site visit, although there were many comings and goings of vehicles and customers using different shops, there were a number of spare parking spaces. Moreover, on many of the surrounding roads there are no or limited parking restrictions and there was not a significant degree of parking pressure.
7. Further, there was free parking available within a convenient distance from the parade of shops. I acknowledge that was only a snapshot at a particular time on a particular day. However, my observations are consistent with the appellant's parking survey, which I am satisfied was submitted during the application process and has reasonably represented the existing situation including excluding areas of private parking.
8. Among other things, Policies LP25 and LP62 of the BFLP set out that development proposals will be permitted where they provide an appropriate

level of parking and that proposals should have regard to current parking standards as guidance. Moreover, the explanatory text advises that where robust evidence is available and more sustainable transport modes are both available and accessible, parking provision can be considered more flexibly.

9. Taking account of local conditions appropriate levels of parking would be available in the area to adequately serve the proposed development. Further, the rear access lane would be able to meet the service needs of the proposal and would provide a convenient pick up and drop off point for any delivery vehicles. It follows that the proposal would not lead to an unacceptable level of illegal, inconsiderate, or obstructive parking.
10. At certain times the proposed use may result in increased parking pressure and customers would want to park as close as possible to the appeal property. However, I am not persuaded that the impact of the proposal would result in an unacceptable impact on highway safety or on the highway network. As a result, the proposal would accord with the guidance set out in the National Planning Policy Framework (the Framework) which indicates that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the highway network would be severe.
11. In reaching that view I have taken account of another appeal decision that has been brought to my attention¹ as well as the other examples of hot food takeaways where the Council indicate that parking is a problem. However, these other cases are materially different from the case before me as the other appeal site and the other examples are in entirely different locations and hence the parking situation and associated parking restrictions are not comparable. As a result, the other appeal decision and examples of other hot food takeaways have very limited weight in the determination of this appeal.
12. Although the proposal does not provide additional parking spaces in accordance with the Council's current parking standards, robust evidence has been provided in this case and more sustainable transport modes in the form of cycle parking spaces would be provided. This justifies a more flexible approach to parking provision.
13. I therefore conclude that the proposal would not have an unacceptable impact on highway safety due to insufficient parking. Consequently, the proposal would accord with Policies LP25 and LP62 of the BFLP and the Framework for the reasons set out above.

Other Matters

14. I have taken account of concerns about noise and odour. I note that having taken account of relevant assessments prepared by the appellant and the comments from their Environmental Health Officer, the Council found that, subject to the imposition of suitably worded conditions, the proposal would not unacceptably harm the living conditions or amenity of neighbouring occupiers. I agree with that analysis. I also do not consider that the proposed development would adversely impact on the customers of other existing uses in the parade. I note there is significant local opposition to the

¹ APP/R0335/W/23/3325921

proposal and a petition signed by many people has been submitted. However, I am not persuaded that there is detailed compelling evidence that the proposal would result in an unacceptable level of anti-social behaviour, littering, inadequate waste management or vermin problems.

Conditions

15. I have had regard to the conditions suggested by the Council and amended them as necessary in the interests of precision and clarity, as well as to comply with advice in the Framework and Planning Practice Guidance (PPG).
16. A condition is needed to secure compliance with the approved plans for the avoidance of doubt and in the interests of proper planning. To ensure the proposal does not have an adverse impact on highway safety and to promote sustainable modes of transport it is necessary to impose conditions requiring implementation of a parking, delivery and servicing management plan and provision of cycle parking. To ensure that the proposal does not adversely impact the living conditions or amenity of surrounding occupants it is necessary to impose conditions in relation to times of delivery, opening times of the takeaway and odour mitigation.

Conclusion

17. For the reasons given above the appeal should be allowed.

S Rawle

INSPECTOR