

Appeal Decision

Site visit made on 24 September 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/U4610/W/24/3341793

West One Catering, Westwood Way, Coventry CV4 8HS

- 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 D Raj against the decision of Coventry City Council.
 - The application Ref is PL/2023/0002450/FUL.
 - The development proposed is the change of use from retail unit (class E) to takeaway (sui generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development provided on the application form describes the proposed development as a 'takeaway'. Based on the Design and Access Statement, Appeal Statement and other related documents, including the Officer's Report and the Council's decision notice, I am satisfied that this means a hot food takeaway, or more specifically, a hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises, as it is defined in the Town and Country Planning (Use Classes) Order 1987 (as amended). I am further satisfied that this is how both the appellant and the Council regard the matter and thus have not consulted on this further. As such, I have considered the appeal on this basis.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. I am also aware of the consultation draft from July 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. References to paragraph numbers in this decision relate to the December 2023 version of the Framework.

Main Issue

4. The main issue is whether the site represents a suitable location for a hot food take away considering its position in an out-of-centre location.

Reasons

5. The appeal site is set beyond the limits of any designated district or local centre and therefore falls within the ambit of policy R4 of the Coventry City Council Local Plan 2017 (CLP) for Out of Centre Proposals. This policy sets out that proposals for retail and other Main Town Centre uses (including proposals for the expansion or re-configuration of existing uses and the variation of existing conditions) will not be permitted in out-of-centre locations unless they satisfy the Sequential Assessment of policy R4.
6. No Sequential Assessment has been provided with the application to demonstrate that other, more suitable, sites are available within the defined district or local centres or edge of centre locations. In accordance with paragraph 90 of the Framework, this sequential test is in place to support the role that town centres play at the heart of local communities.
7. In the absence of a Sequential Assessment it is not possible to conclude that the appeal proposal would be acceptable in this location considering the district or local centre hierarchy and context of the site in an out-of-centre location and current concentration of hot food take away uses. The proposal to re-configure the premises to a hot food takeaway therefore fails to comply with policy R4 of the CLP and provisions of the Framework.
8. The site is set within an area of mixed uses. These uses predominantly comprise offices within the Westwood Business Park however there are numerous examples of educational institutions and halls of residence for students of varying ages. Policy R6 of the CLP supports hot food takeaways within defined centres but notes that these will normally be discouraged outside those locations. This policy is supported by guidance within the Coventry City Council Hot Food Takeaway Supplementary Planning Document 2019 (HFTSPD).
9. Section 4.2 of the HFTSPD seeks to limit new hot food takeaways in close proximity to schools in the interests of health and sets out that such proposals will not be approved if the hot food takeaway falls within a 5 minute walk from the gates of any school. Appendix B of the HFTSPD defines these radii. The appeal site is located within one such area with a total of three schools being within the catchment zone, of which the Council considers all are within a five minute walk. The adverse effects of take away food on health are set out clearly in Appendix A of the HFTSPD and I have been provided with no evidence to disagree with these findings. Imposing a condition to require details of the menu would be neither reasonable nor enforceable in addition to being impractical for the operator and Council. It would therefore not accord with the Planning Practice Guidance.
10. I recognise that the educational facilities nearby will not necessarily be open or fully occupied during the proposed hours of use after 4pm on weekdays. Nevertheless, given the secondary or tertiary nature of a number of the educational facilities, this remains a possibility. Moreover, the proximity to halls of residence to serve secondary and tertiary age pupils leads me to conclude that it is likely that a fair proportion of the attendees will remain in this general catchment area following the conclusion of daytime educational activities. In this context, I consider that such students would be able to visit the hot food take away during its opening hours.

11. The proposed development would therefore be in an unsuitable out of centre location and due to its proximity to educational uses and residential accommodation that specifically cater to students. It therefore fails to comply with policy R6 of CLP, the guidance and advice contained within the HFTSPD, particularly insofar as it relates to proximity to schools, and the provisions of the Framework.

Conclusion

12. 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. For the reasons given above the appeal should be dismissed.

Nick Bowden

INSPECTOR