



Appeal Decision

Site visit made on 10 December 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2025

Appeal Ref: APP/E0345/W/24/3347565

39 Berkeley Avenue, Reading RG1 6JS

- 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 Sandhu against the decision of Reading Borough Council.
- The application Ref is 221769.
- The development proposed was described as: "Change of use of ground floor shop F.2 (former A.1) to takeaway (sui generis) and installation of an extraction chimney".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development within the application form and which is in the banner heading above differs to that contained in the decision notice. The application form describes the existing use as "ground floor shop F.2 (former A.1)". Use Class F.2 is defined¹ as a shop mostly selling essential goods, including food, to visiting members of the public in circumstances where the shop's premises cover an area not more than 280 square metres, and there is no other such facility within a 1000 metre radius of the shop's location.
3. The submitted evidence indicates that the original 2004 planning permission² for the appeal site premises is described as Use Class A1 (shops), a revoked use class now replaced by Use Class E (commercial, business and service), and that there are other retail stores and hot food takeaways within a 1000 metre radius of the site. This includes premises within a local commercial parade along Wensley Road, which I found during my site visit to be within a short walking distance from the appeal site. I have therefore determined the appeal having regard to the decision notice description, as it is more accurate.
4. A revised National Planning Policy Framework (the Framework) was issued on 12 December 2024. I have given the main parties an opportunity to comment as to whether the Framework revisions have any relevance to the appeal.

Main Issues

5. The main issues are:
 - the effect of the proposed development on highway safety, with particular regard to the safe operation of the highway for all users, parking provision, and refuse storage;

¹ The Town and Country Planning (Use Classes) Order 1987 (As Amended)

² Local Planning Authority Ref: 040450

- the effect on the living conditions of nearby residents, with particular regard to noise and disturbance; and
- whether the location outside of Reading town centre is acceptable, with particular regard to the development plan and the Framework.

Reasons

Highway safety

6. The appeal site comprises a vacant ground floor commercial space adjacent a larger and long-established retail convenience store, facing Berkeley Avenue which is a classified road (A4), and within walking distance of Reading town centre. This commercial space adjoins the existing convenience store and was originally built as an extension to this convenience store.
7. The surrounding area is predominately residential, although there is a 24-hour petrol station and convenience store with ATM machine on the opposite side of the road. The site is also within close vicinity to a car sales premises and places of worship further to the east off Berkeley Avenue.
8. The 2004 planning permission included a parking area to the rear. Planning permission was subsequently granted³ for a side extension to the dwelling of No 37 Berkeley Avenue next to No 39. This approved extension crosses the access to the rear parking area, but this did not appear to have been implemented at the time of my site visit. The appellant contends that this neighbouring permission in effect negates the rear parking area, whereas the Council contends that the rear parking area was never provided or was lost over time. Irrespective of the circumstances, based on the submitted evidence I must assume that this rear parking area will not be implemented or made available for the appeal scheme.
9. The building of No 39 is set back from Berkeley Avenue with a shallow paved forecourt along its frontage. This existing forecourt layout is to be retained and the appeal site's frontage is of sufficient width for two vehicles to park. The footway in front of and along the forecourt area is wide and includes a long crossover shared with No 37.
10. At the time of my site visit, two rows of bins were present either side of the No 39 building frontage. A parcel locker is also sited immediately in front of the convenience store. I observed Berkeley Avenue to be a busy road with double yellow lines along each side of the carriageway, adjacent the footways.
11. I also observed several vehicles parked in forward gear in front of the appeal site and overhanging the footway, due to the limited depth of the forecourt. One vehicle parked diagonally across the footway and near to the carriageway for a passenger to enter and exit the convenience store. I also saw a car user of the post locker exiting by reversing further back on to the footway and then turning to exit in forward gear from the crossover. One vehicle remained parked directly in front of the appeal site frontage throughout my visit, which could have related to the convenience store or the residential units above.
12. Two parking spaces were predominantly free along the whole frontage of No 39 during my visit, which includes the convenience store frontage. Despite this,

³ Local Planning Authority Ref: 221768

and although my site visit was a single snapshot in time, it appears that the forecourt is regularly used for parking and that existing users already cause an obstruction to the footway. To my mind, a self-contained hot food takeaway premises as proposed would lead to a materially greater intensity of vehicle use than the 2004 approved kitchen for production of food products ancillary to the convenience store.

13. Such an increase in intensity of use would cause further obstruction to footway users, particularly those with mobility issues. This could lead to some footway users having to step on to the highway. It would not be safe or desirable for pedestrians to traverse the highway in this location.
14. Additional vehicles reversing on to or parking along Berkeley Avenue may also adversely affect the flow of traffic and the safety of all highway users. I accept that the appeal site is within an accessible location near to the town centre, bus services and local amenities. Irrespective of this, given the more suburban location of the proposal and the nature of a hot food takeaway use, I anticipate that many future users would still likely travel to and from the premises by car.
15. I therefore also consider it likely that there would be increased competition for parking spaces within the forecourt, which may also be used for the residential units above No 39. Refuse storage for the appeal proposal would have to be placed on the forecourt amongst the existing established arrangement, which would further compromise the forecourt space. This would lead to further parking pressures and the overall proposal may lead to parking on double yellow lines, or additional encroachment on to the footway. The existing layout in front of and adjacent to the appeal site is therefore insufficient to accommodate the proposed use in terms of highway safety.
16. My attention has been drawn to an existing hot food takeaway premises within the Wensley Road local commercial parade, within a short walking distance to the west of the appeal site. Whilst I do not have the full layout details of this premises, I noted a long off-street parking bay in front of the parade and fully separated from the wide footway in front of it. The appellant also refers to other existing takeaway premises elsewhere in Reading, which are presented as having similar circumstances. However, these premises are at considerable distance from the proposal site, and their planning histories and policy contexts are not before me. The existence of these premises therefore does not justify allowing the appeal.
17. I have found that the proposal would significantly harm the safe operation of the highway for all users, including insufficient parking provision and refuse storage. The appeal scheme therefore conflicts with Policies TR3 and TR5 of the Reading Borough Local Plan 2019 (RBLP) which require, amongst other things, development to not have a detrimental impact on to the safety of users of the transport network, to not compromise the safe movement and free flow of traffic on the network or the safe use of the road, and to provide car parking appropriate to the accessibility to sustainable transport facilities.

Living conditions

18. The appeal scheme would use the existing front double glazed door as its public entrance. The overall building of No 39 includes two flats on the upper floors, accessed from the extended front elevation. Other dwellings are also nearby to each side and beyond the site's rear boundary along Boston Avenue.

19. The submitted evidence indicates that the proposed hours of opening for the hot food takeaway would be up to 10pm Mondays to Sundays. The submitted plans annotate a seating area of limited size between the front entrance and the serving area. I therefore consider it likely that waiting takeaway customers would congregate outside along the forecourt during busier operating periods.
20. It is however common ground that the adjacent convenience store is open one hour later than the current proposed operating hours, which operates below most of the first floor front elevation residential windows. I also consider it likely that the adjacent parcel locker is used beyond the proposed takeaway operating hours. Additionally, the petrol station on the opposite side of the road advertises 24 hour opening hours, and the traffic noise along Berkeley Avenue was clearly audible during my site visit. The Council's Environmental Health Officer also raised no objection in their detailed consultation comments.
21. Given the location of the proposal and its intended operating hours, I envisage that the additional noise and disturbance impacts generated by customers of the takeaway premises would not lead to an adverse level of additional impact upon the existing living conditions of surrounding residents. Had I been minded to allow the appeal, the operating hours could have been controlled by means of a suitably worded planning condition.
22. The proposal therefore complies with Policy CC8 of the RBLP which requires, amongst other things, development to not cause a detrimental impact on the living environment of existing residential properties in terms of noise and disturbance.

Location

23. The appeal site is not located within Reading town centre or any other designated town or district retail centre. The second reason for refusal cites conflict with Policy RL2 of the RBLP and paragraphs 91 and 95 of the Framework, in terms of failing to demonstrate exceptional circumstances to justify the location of the proposed hot food takeaway.
24. Policy RL2 sets out, amongst other things, that retail and main town centre leisure and culture development involving a net gain of over 2,500 sq m will take place in, or as an extension to, the centre of Reading, unless it is on a site allocated for such development. This policy also requires compliance with the relevant tests set out in national policy.
25. The officer report indicates that when paired with the Council's concerns regarding living conditions and highway safety, the location is not sustainable or appropriate for the proposal. However, upon my reading of Policy RL2, the proposed use as a small hot food takeaway premises is not subject to the requirements of this policy.
26. Annex 2 to the Framework defines main town centre uses as comprising: retail development; leisure, entertainment and more intensive sport and recreation uses; offices; and arts, culture and tourism development. The proposal does not fit within this definition and therefore, the sequential test as outlined in the Framework does not apply.
27. Interested parties have raised concerns regarding an excessive number of takeaways in the area and increased competition with the nearby takeaway on Wensley Road. Be that as it may, it remains that the proposed use would not

conflict with Policy RL2 of the RBLP, and I have not identified any other conflict with the development plan in regard to these matters.

Planning Balance

28. I have found no conflict with Policies CC8 and RL2 of the RBLP in respect of impact on neighbouring living conditions and the location outside of Reading town centre. I have however found significant conflict with Policies TR3 and TR5 of the RBLP in terms of highway safety. I therefore conclude that the proposal is contrary to the development plan as a whole. This unacceptable highway safety risk also conflicts with one of the key aims of the Framework.
29. It is put to me that the proposal would be of benefit to the local community through provision of a restaurant with takeaway as a meeting space for local residents. Such social benefits are also supported by the Framework. The proposed seating area is however limited and thus the social benefits would not outweigh the development plan conflict that I have identified. The appellant also contends that there is a lack of similar meeting space for the wider Coley Park neighbourhood. This has however not been adequately demonstrated. The submitted evidence highlights a community centre within this area and I also noted nearby places of worship that may provide a similar community function.
30. The proposal would form a more efficient use of the premises, an increase in activity and a more attractive commercial arrangement. No evidence has been provided to demonstrate that a hot food takeaway is the only, or least harmful, potential use for this premises and whilst it is currently vacant, it did not appear to be in a poor visual condition.

Conclusion

31. For the reasons given above, the proposal conflicts with the development plan as a whole and the material considerations before me do not indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, the appeal is dismissed.

R Cahalane

INSPECTOR