



Appeal Decision

Site visit made on 22 January 2025

by **A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th February 2025

Appeal Reference: APP/K0235/W/24/3351038

Unit 1, 147 Brooklands Avenue, Wixams, Bedford MK42 6AE

- 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 R Kandhola, DPSK Ltd. against the decision of Bedford Borough Council.
 - The application Ref is 24/00521/FUL
 - The development proposed is Change of use from Restaurant (Class E) to hot food takeaway (sui generis) with single storey rear extension and installation of extract and ventilation equipment.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The Main Issues are:
 - whether, having regard to the use proposed, there would be adequate parking provision and suitable access for service vehicles, and
 - the effect of the proposed hot food takeaway on environmental quality in the area, and upon the living conditions of nearby residents, with particular reference to noise and disturbance.

Reasons

Parking provision and access

3. The appeal premises are a vacant restaurant being one of three commercial units in a building referred to as a neighbourhood centre within the recently developed neighbourhood area of Wixams. The primary unit is a small supermarket which faces Brooklands Avenue with a single storey wing to the side¹ which contains a Fish and Chip shop and the third unit which is the subject of this appeal. These units open onto a parking area bounded on one side by housing. Pedestrian walkways around the Village Lake connect housing to the neighbourhood centre within a tranquil community setting. On the south side of the building an access road serves the delivery area for the three premises and a parking area with numbered spaces for residential use. Further parking spaces are adjacent to the

¹ Facing north

south wall of the supermarket and a similar number of spaces along Brooklands Avenue to the front.

4. The appellant indicates the new use would be primarily a delivery-based business with 80% of sales being delivered employees and 85% of total sales occurring after 18:00 potentially up to 23:00 or midnight² on any night of the week. A servicing and delivery management plan submitted with the appeal explains that peak demand will be between 18:00 and 22:00 particularly on Fridays and Saturdays.
5. The Council acknowledge the '*number of general parking spaces required....would be less.... (than the existing use)*' but indicate the staff parking provision '*could result in a requirement for 12 spaces*', which the appellant disputes. It is submitted that other than the delivery drivers, the level of staff vehicle trips would be low. How this is justified is not entirely clear as, plainly, the proposal is founded on the demand for home consumption of prepared food which is, primarily, to be delivered rather than being collected and it is noted that the appellant refers to changes in the need for parking as a result of App-based hot-food delivery services which, by implication, are not reflected in the Council's parking standards, which are maxima. Whilst the appellant suggests that parking provision would need be no greater as a result of this change of use it is also relevant that most hot-food takeaways would be found in high street or similar locations where impacts of the use are absorbed within a larger and more diverse commercial setting.
6. The submissions of the appellant do not quantify trip generation by delivery drivers. However, this may be judged from the number of delivery drivers which would be employed and, therefore, an associated number of cars, bicycles or motorcycles³. The appellant has revised the predicted staffing levels which were originally stated to be, at the busiest times, 6-7 staff within the premises and 7-8 delivery drivers, a total of around 14. Now expressed as 5 full time equivalent (FTE) of indoor staff and a similar provision for delivery drivers, this presentation does not adequately explain what happens at periods of peak demand. Whereas the presumption of the parking standards referred to are that part time working aggregates to an overall number of car parking spaces, it is clear that, having regard to the 85% concentration of trade into the hours after 18:00 that there will be a much greater number of staff and delivery drivers present at these peak times than full-time equivalence would suggest. Notwithstanding the accessibility of the location, this is a significant factor having regard to the small scale of the neighbourhood centre.
7. The appellant seeks to persuade that drivers would only be briefly on site and perhaps use only one space, but to do so would require an unfeasible degree of synchronisation between drivers and the kitchen when several drivers could be working at peak times. The factors to be considered in that regard would be the catchment area addressed by the operator, which is likely to be limited⁴ and the consequential short trip duration which may contribute to either waiting to receive orders with a related impact on use of the parking area (as it is unlikely that a driver would wait elsewhere) or a more intense trip frequency. These factors are not addressed in the appellant submission but indicate a likelihood that the proposed use would, at peak times in the evenings, potentially but unacceptably disrupt the use of the small north-side car park due to the number of deliveries being made.

² As stated in the Edisons appeal statement

³ Or similar, mopeds, scooters etc

⁴ Noting that there are other outlets nearby

8. The appellant's parking survey which took place at a period of peak use for the proposed development indicated spare capacity of between 3 and 11 spaces at differing times for the car park adjacent to the appeal site (the north-side car park). Whilst it is indicated that some deliveries would be by E-bike, that would not preclude travelling to work by car and further, notwithstanding the likelihood that some staff will not have or use a car to get to work, unlike the position referred to in the Treorchy Appeal decision⁵ mentioned by the appellant, there are no parking restrictions that would encourage alternatives to the private car. Consequently, I consider it is highly likely that a significant proportion of those employed, whether as drivers or within the premises, will occupy parking spaces around the neighbourhood centre. Overall, and as the survey shows, if that proportion were 50% of the total staff present then that could at peak times consume all free spaces⁶ such that returning delivery drivers would, at times, be unable to park leading to irregular parking. This situation would be further exacerbated by the 20% of in-person or App-based collections which are not included in the appellant delivery service.
9. The development would be serviced by a 7.5 ton rigid truck and the submitted swept path diagram shows adequate manoeuvring for delivery to the unit with the proposed rear extension in place as would be the case for the adjacent Fish and Chip takeaway. The appellant states that the constrained access at the rear of the building is an existing issue which will not be exacerbated by the proposed development, however it has not been demonstrated that the introduction of the proposed extension into the service yard would not interfere with the manoeuvring of the larger vehicles which would usually service a food retail unit.
10. Policy 31 (i) of the Bedford Borough Local Plan 2030 (BBLP) states that planning applications should give particular attention to considerations relating to parking provision and safety. Noting that many users will wish to be as close as possible to the premises my reasoning directs that the likely impact of food delivery and workers cars would be an increased likelihood of irregular, obstructive or hazardous parking which would conflict with this policy.

Living Conditions

11. The area around the appeal site is well used by pedestrians as the car park is located at the point where pathways around the nearby Village Lake commence. These give access to housing to the west, which includes family housing overlooking the Lake, providing a tranquil environment. I note reference to seating in front of the unit in conjunction with the potential for anti-social behaviour but at the time of my visit there was no seating. A small three storey block of apartments being the northernmost of a line of similar housing which front a well-used pathway that connects the neighbourhood centre with Green Lane, lies close to, and with windows overlooking, the car park and frontage of the appeal site.
12. The area was moderately busy at the time of my site visit which was in the middle of the day although both the Fish and Chip Takeaway and the appeal site were 'dark'. The car park was in use by tradesmen, visitors to local residents and those using the supermarket with just over half the available spaces free to use. Due to the somewhat disjointed pathway layout I noted that

⁵ APP/L6940/A/18/3193479 provided in the appellant Highways appeal statement

⁶ at some points of the evening, the survey shows the total number of vacant spaces across the three parking areas was 6-9 spaces (out of 33).

there appears to be a desire-line for pedestrians emerging from the walkway to move diagonally across the car park to access the supermarket and also to reach the various community facilities on the east side of Brooklands Avenue, requiring them to negotiate around vehicles.

13. The proposal would introduce a different character of use to that of a small local restaurant, into a calm waterside location which has little in common with the urban locations where take-away uses are often found. There would be an intensification of use of the car park and a greater frequency of movements in and out due to the delivery service. Although some of these movements would be by means other than the private car, more noise and disturbance due to comings and goings would be an inevitable consequence from the operation of a delivery service involving a not-insignificant number of delivery drivers. Social exchanges would also take place outside rather than within a restaurant space.
14. I have noted the appellant's references to the existing use and the takeaway component of that operation however I am not persuaded as to any equivalence in that regard, nor by suggestions as to the likelihood that the existing permitted use as a restaurant 'clearly encourages gatherings at the site'. Overall, in conflict with Policy 32 of the BBLP, I consider the proposed use would introduce a significant risk of intrusive noise and disturbance to local residents who live close to the site and further, that the intensification of activity would unacceptably undermine the existing tranquil setting, doing so to an extent significantly greater than would arise from the reintroduction of any restaurant use.

Conclusion

15. The appellant has provided details of an appeal⁷. However it is clear that the circumstances are very different to those in the matter before me. The Ridingleaze appeal related to a local centre with 24 units in which regard the addition of one takeaway (to an existing three) would, as the Inspector noted, maintain an appropriate balance of uses. That observation highlights a key issue with the proposal as what is proposed would result in two of three units being hot-food takeaways.
16. Changes to the use classes order in 2020⁸ which allowed a wide range of uses, within the single Use Class E in order to support high streets and economic growth were accompanied by the requirement to seek express permission for hot food takeaways in order that communities may give attention to the individual effects of these uses in particular locations. The proposed location is not a High Street, nor is it located within a larger group of Class E units which would dilute its effects. The result of the proposal would be that the neighbourhood centre would be dominated by 2 adjacent hot-food takeaways operating at a low level (or closed in some cases) through much of the day but very active, including intensification of vehicle movements, at other times. The result would be a detriment to the attractiveness of this small neighbourhood centre and its tranquil setting.
17. I therefore consider there would be a conflict, to which I attach full weight, with Policy 32 of the BBLP which seeks that development should have regard to the tranquillity of an area and avoid disturbance to neighbours. I have also concluded⁹

⁷ APP/Z0116/W/21/3286189

⁸ Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020/895)

⁹ In relation to the first main issue

that the proposal would conflict with policy 31 of the BBLP. I have considered whether the proposal could be made acceptable in planning terms by the use of conditions, including the suggested management plan, however as the concerns relate to the use of public space, other than those suggested by the Police it is unlikely that such measures would be enforceable or effective in wholly addressing the identified problems.

18. I have nothing before me to indicate that the development should be determined other than in accordance with the development plan with which the proposal conflicts in the way my reasoning sets out. Therefore, taking all matters raised into account, the appeal cannot succeed.

Andrew Boughton

INSPECTOR