



Appeal Decision

Site visit made on 09 June 2025

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2025.

Appeal Ref: APP/U3935/W/24/3353726

Golden Star, 1 Blair Parade, Swindon SN25 3DE

- 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 He He against the decision of Swindon Borough Council.
 - The application Ref is S/24/0004.
 - The development proposed is erection of first floor extension above takeaway to create workers flat.
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Decision

1. The appeal is allowed and planning permission is granted for erection of first floor extension above takeaway to create workers flat at Golden Star, 1 Blair Parade, Swindon SN25 3DE in accordance with the terms of the application, Ref S/24/0004, subject to the conditions in the attached schedule.

Preliminary matters

2. The appellant has submitted a drawing (653/100 Rev B) with the appeal which shows an alternative cycle parking layout and refuse store door. This represents a minor alteration to the original scheme. The Council has had the opportunity to comment on these amendments. On this basis, I do not consider that any party would be unfairly prejudiced, and I have had consideration to this drawing in determining this appeal.

Main Issues

3. The main issues are whether the proposal:
 - makes adequate provision for car parking and cycle storage; and
 - provides a satisfactory living environment for future occupiers.

Reasons

Car parking and cycle storage

4. The proposal relates to the creation of a worker's flat within a proposed extension over a hot food takeaway. The Council's Parking Standards for New Development (2021) (PSND) sets out that residential developments of the scale and location proposed require at least one on-site parking space for occupiers. The proposal does not make any provision for car parking and thus does not comply with the PSND's car parking standards.
5. However, the proposal is for a flat for a worker in the existing hot food takeaway and it is stated that the future occupier of the flat already travels to the building for

work. Given this, it is unlikely that the proposal would result in the demand for additional car parking. Furthermore, the site is well located in relation to public transport and services and facilities necessary for day to day living, which could reduce reliance on private vehicles. In these particular circumstances, there is no evidence that the lack of car parking would harm the free flow of traffic or the safety of road users.

6. The PSND sets out that the proposal generates a requirement for the provision of one cycle parking space and advises that for flats either individual lockers or cycle stands within a lockable, covered enclosure are required close to entrances. Cycle storage would be located within the takeaway customer waiting area during non-operational hours and within the kitchen during operational hours. The cycle storage arrangements would involve the occupier of the flat moving the bike during the takeaway's operational and non-operational times. The bike would not be secured within a lockable enclosure and its siting within the kitchen would not be practical, in particular when the kitchen is in use. This arrangement would be inconvenient and impractical and contrary to the guidance in the PSND.
7. In light of the above, whilst I find that the lack of car parking would not result in harm to the operation of the highway network or the safety of road users, the proposal fails to make provision for adequate secure cycle storage to encourage travel by sustainable means. Conflict therefore arises with those aims of Swindon Borough Local Plan (2015) (LP) policies TR1 and TR2 which seek to support and encourage sustainable travel including through maximising opportunities for cycling.

Living environment

8. Access to the flat would be taken from the customer waiting area of the takeaway and it would be necessary for the occupier and their visitors to walk through the waiting area to gain access to the property. However, as the occupier of the flat would be working at the takeaway, a matter which I consider could be adequately dealt with by a condition, there is no suggestion that this arrangement would be unacceptable to them. Whilst visitors to the flat would gain access through the waiting area, there is no evidence that this in itself would be particularly harmful.
9. I find that the development would provide satisfactory living conditions for the future occupiers. I therefore find no conflict with LP policy DE1 which seeks to ensure that the layout of new development is respectful of amenity.

Other Matters

10. The Council suggest that the access arrangements would not provide adequate means of escape for future occupiers in the event of a fire. However, fire safety compliance matters would be covered independently by Building Regulations.
11. The Council raised no objections to the proposal on grounds of the effect on the living conditions of the occupiers of neighbouring properties. Based on the evidence before me and my observations on site, subject to the inclusion of a condition which restricts the glazing to the proposed rooflights and shower room window, I see no reason to take a different view.

12. It is proposed that refuse storage would be accessed externally via an inward opening folding door in the western side wall of the building which would ensure that access to the neighbouring building would not be restricted.

Planning Balance

13. The Council accepts that it is unable to demonstrate a 5-year housing land supply. Paragraph 11 d) of the National Planning Policy Framework (the Framework) indicates that, in such circumstances where the requisite housing land supply cannot be shown, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
14. Given the failure to make adequate provision for cycle storage I have found that the proposal fails to encourage travel by sustainable means. Conflict therefore arises with those aims of LP policies TR1 and TR2. Nonetheless, considering the location of the site in relation to services and facilities and other sustainable modes of transport the conflict with Chapter 9 of the Framework, which seeks to promote travel by sustainable modes, would be limited.
15. On the other hand, the proposal would make the provision of one residential unit. Given the supply shortfall, this attracts significant weight as a public benefit.
16. Consequently, in my view, the adverse impacts arising from this development do not significantly and demonstrably outweigh the scheme's benefits. The proposal would therefore represent a sustainable form of development when assessed against the Framework read as a whole, which is a material consideration in favour of the development. Given this, material considerations indicate that the proposal should be determined otherwise than in accordance with the development plan.

Conditions

17. I have had regard to the conditions suggested by the Council, on which the appellant has had the opportunity to comment. Where necessary I have made revisions to some of the conditions put to me to ensure that they meet the tests in the Framework and Planning Practice Guidance (PPG), without altering their fundamental aims.
18. Planning permission is granted subject to the standard 3-year time limit condition for implementation. In addition, it is necessary to specify the approved plans in the interest of certainty. In the interest of the character and appearance of the area, conditions are necessary to control the external materials of the development. In the interests of residential amenity and highway safety I have included a condition requiring the approval of a Construction Management Plan.
19. I have also included a condition which restricts the occupation of the flat to an employee of the ground floor commercial unit. This is necessary to ensure that future occupiers of the flat are provided with satisfactory living conditions in relation to the access to the flat. A condition which restricts a window opening and the rooflight openings is necessary to safeguard the living conditions of the occupiers of neighbouring properties.
20. I have omitted a suggested condition requiring the provision of cycle parking. For the reasons set out in relation to the first main issue I do not consider that the proposed cycle parking represents a secure or practical arrangement, and I cannot

be certain that it would be possible for the terms of this condition to be complied with. For this reason, condition 2 also specifies that the development be carried out in accordance with the approved plans, with the exception of the cycle parking shown on plan 653/100 Rev B.

Conclusion

21. The proposal conflicts with the development plan. However, material considerations indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

N Robinson

INSPECTOR

CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 653/001 Rev A, 653/100 Rev B, 653/200 Rev A, 653/050 Rev A except in respect of the proposed cycle storage shown on plan 653/100 Rev B.
- 3) The development hereby permitted shall be constructed using external facing materials that match and correspond with those of the existing building. Such facing materials shall be retained thereafter in their approved form.
- 4) The occupation of the development hereby permitted shall be limited to a person solely or mainly employed in the business occupying the ground floor commercial unit at 1 Blair Parade.
- 5) No development shall take place, including any works of demolition, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CMP shall:
 - i. specify the type and number of vehicles that will access the site during the construction period;
 - ii. specify the point of construction access and access route to the site;
 - iii. set out details of the parking of vehicles of site operatives and visitors;
 - iv. set out arrangements for the loading and unloading of plant and materials;
 - v. set out arrangements for the storage of plant and materials used in constructing the development;
 - vi. set out arrangements for wheel washing facilities;
 - vii. specify the intended delivery hours, taking account of road network and other local traffic peaks such as schools.

The approved CMP shall be adhered to throughout the construction period.

- 6) The residential unit hereby permitted shall not be first occupied until the first floor shower room window to the eastern elevation and the bedroom roof lights to the southern elevation have been fitted with obscured glazing, and no part of that window and those rooflights that are less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.