



Appeal Decision

Site visit made on 21 May 2025

by **D Ellis MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 June 2025

Appeal Ref: APP/U5930/W/25/3360723

3 The Broadway, Chingford, Waltham Forest E4 9LQ

- 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 Ms Sezer Garip against the decision of Council of the London Borough of Waltham Forest.
 - The application Ref is 242493.
 - The development proposed is described as 'change of use from shop (Use Class E) to hot food take away (Sui Generis) with installation of extract ventilation system at roof level. Retention of new shopfront. Opening hours: Monday to Friday – 16:00 – 22:00, Saturdays – 12:00 – 22:00, Sundays – Closed.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application form refers to the applicant as Mr Sezer Garip. However, Ms Sezer Garip is referred to on the appeal form and supporting documentation. I have therefore used this in the header above.
3. The change of use has already been carried out and the takeaway appeared to be open at the time of my site visit. As this was at approximately midday, it was therefore operating outside of the proposed opening hours. In the interests of clarity, I have assessed the proposal on the basis of the submitted details.

Main Issue

4. The Council raises no objection to the new shopfront or the installation of the ventilation system and, based on the evidence before me, I can find no reason to disagree. The main issue therefore is the effect of the development on community health.

Reasons

5. The appeal site is a ground floor unit in a parade of shops. The site is within a designated district centre and primary shopping area.
6. Policy 51 of the Waltham Forest Local Plan Part 1 (2024) (WFLP) and Policy E9 of the London Plan (2021) (LP) are both concerned, in part, with restricting the number of hot food takeaways in walking distance of educational establishments and youth facilities and minimising the impact of an over concentration of hot food takeaways. The supporting text to the policies further explains that a key objective

is to reduce levels of obesity and to encourage healthy eating in order to promote healthier communities.

7. WFLP Policy 51, LP Policy E9 and Policy BED2 of the Highams Park Neighbourhood Plan (2020) (NP) all require hot food takeaways to not be located within 400 metres walking distance of educational establishments including nurseries, primary schools and secondary schools. These policies align with paragraph 97 of the National Planning Policy Framework (the Framework), which states that applications for hot food takeaways should be refused in locations within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre.
8. The appellant accepts that a nursery, a primary school and a secondary school are all within 400 metres walking distance of the appeal site. While the site is within a district centre and primary shopping area, WFLP Policy 38 sets out the hierarchy of centres and confirms that the site is not within a designated town centre.
9. Although children attending the nursery and primary school may not purchase a takeaway themselves, it is possible that a parent or carer could buy food from the takeaway and share it with the child.
10. The school day at Highams Park School ends at 15:15, although the submitted timetable shows that some pupils may have an additional lesson or attend extra-curricular clubs or activities which would end at 16:20. Moreover, not all pupils may head home immediately and could congregate and socialise with friends in the vicinity of the appeal site after school. As such, the proposed opening times of either 16:00 or 17:00 would allow children the opportunity to purchase food from the takeaway.
11. Even if the schools serve fish and chips every Friday, I have no evidence before me to demonstrate how many pupils at the school eat fish and chips. It is also unknown whether the cooking methods, such as deep fried or oven baked, are the same at the school and the takeaway. In any event, the schools may serve fish and chips once a week as a lunchtime meal whereas the takeaway would offer the opportunity for fish and chips to be consumed every day as an evening meal or as an additional snack.
12. Whilst unhealthy food can be purchased from convenience shops, having a takeaway so close to schools undermines the policies that aim to minimise the detrimental impacts of hot food takeaways on the health of the community.
13. Although the submitted 'Local indicators for Waltham Forest' shows that, for the borough as a whole, the proportion of children both at reception age and at Year 6 age who are overweight are slightly lower than the 2023/24 average, this would still represent a significant number of overweight children in the borough. Furthermore, the indicators show that a considerable proportion of year 6 age children are obese. The Health Impact Assessment (dated February 2025) argues that there are a range of adverse impacts and benefits from the takeaway. However, it accepts that there would be a moderate adverse effect due to the provision of fried food.
14. I note that the takeaway has signed up to the Healthier Catering Commitment for London. Nevertheless, as the takeaway would offer a daily opportunity for children to consume fried food, the takeaway could contribute towards a negative impact

on the figures for overweight and obese children in the borough. As such the development does not make a positive contribution towards the health of the community.

15. I note that the main parties agree that there is not an over-concentration of hot food takeaways within the vicinity of the appeal site, and from the evidence before me I can see no reason to disagree with this conclusion. However, this does not override my concerns set out above.
16. The development therefore conflicts with WFLP Policies 48 and 51, LP Policies E9 and GG3 and NP Policy BED2, which seek, amongst other things, that developments promote the creation of healthy places and communities.
17. The Council also cite a conflict with WFLP Policy 49, which requires the submission of a Health Impact Assessment (HIA) for development proposals which meet selected criteria. As an HIA was submitted with the appellant's appeal documents, the requirements of Policy 49 are satisfied.

Other Matters

18. Representations have been received from local residents praising the service and conduct of the takeaway as well as the quality of the food, and I have no reason to doubt the contribution that the appellant has made to the community. However, this does not alter the harm identified above. Whilst the proximity of the schools to the district centre may restrict new takeaways opening, there are existing hot food takeaways already in operation. I have no details before me of any planning permissions for these takeaways, including when planning permission was granted. It is therefore possible that some or all of these other takeaways are exempt from planning enforcement action, or that the planning applications for these were assessed against a previous local and national policy context, which may have had different policies regarding hot food takeaways.
19. The development contributes to the local economy, being a small business within a district centre. Nevertheless, given the scale of the development, this benefit is modest and does not outweigh the harm that I have identified above.

Conclusion

20. The proposal conflicts with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

D Ellis

INSPECTOR