
Appeal Decision

Site visit made on 1 July 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 July 2025

Appeal Ref: APP/P4415/W/25/3362622

Dunkin Donuts, Adjacent to Taco Bell, Sycamore Road, Eastwood, Rotherham S65 1EN

- 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 Chicken Villas Limited against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref is RB2024/1108.
 - The development proposed is change of use from restaurant to hot food takeaway.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from restaurant to hot food takeaway at Dunkin Donuts, adjacent to Taco Bell, Sycamore Road, Eastwood, Rotherham S65 1EN in accordance with the terms of the application, Ref RB2024/1108, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos 4802-001, 4802-002 and 4082-100.
 - 3) The site shall operate in accordance with the agreed cooking details and specifications (ref Extractor Statement Airflow Cooling 1st November 2016, along with email 22nd November 2024, one fryer (2 vats) and one rethermaliser, equipment). The extraction/filtration system shall be maintained and operated in accordance with the manufacturer's specifications, and control odour in the neighbourhood details and shall be operated effectively during cooking.

Main Issue

2. The main issue is whether the proposed use as a hot-food takeaway is acceptable given its location within 800m of schools and the aims of the National Planning Policy Framework (the Framework) and the Equal and Healthy Communities Supplementary Planning Document No. 5 (June 2020) (the SPD) with regards to promoting a healthier community.

Reasons

3. The appeal site is a modern out of centre restaurant currently occupied by Dunkin Donuts, which fronts onto Sycamore Road. It is located adjacent to another block of units which includes KFC and Taco Bell, which is next to a Toby Carvery and there is a McDonalds restaurant on the opposite side of the dual carriageway.

Sycamore Road provides access to a range of commercial and industrial units, including a supermarket and bingo hall. It also provides access to the A630, a busy dual carriageway. On the opposite side of the dual carriageway there is residential development. Taco Bell, which operates in the adjoining unit, is seeking to move into the appeal building to make better use of the drive thru function – hence the proposal for a change of use to a hot food takeaway.

4. Paragraph 97 of the Framework states that local planning authorities should refuse applications for hot food takeaways and fast food outlets within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre; or in locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social-behaviour.
5. The SPD has been prepared to assist applicants in considering equalities, health and wellbeing issues when preparing planning applications and in meeting the requirements of Policies SP11 and SP55 of the Sites and Policies Document (June 2018). Health and Equalities guidance 2 within the SPD states that planning permission will not be granted for any new hot food takeaway where proposals are located within 800m of a primary school, secondary school or tertiary college.
6. The policy approach set out in the SPD aims to reduce pupils access to unhealthy food options, thereby improving the health of residents and reducing childhood obesity. It identifies that within Rotherham, obesity levels for children at primary school age are higher than the national average. The SPD has adopted a threshold of 800m which the Council considers represents a reasonable walking distance measured from the school entrance, although I note that, as specified in the SPD's supporting text, account will be taken of barriers such as main roads.
7. There are two schools which are located within 800m distance from the appeal site. High Greave Junior School is located approximately 500m away on the other side of the A630 and the A6123 dual carriageways. Access to the appeal site from this school would involve crossing both dual carriageways at the traffic-controlled crossings, which would substantially increase the time taken to walk to the site. The Rotherham Aspire Pupil Referral Unit is located within the adjoining industrial estate and, although a greater distance away at approximately 650m, the site is accessible via pavement without crossing any major roads.
8. The appellant has submitted information which demonstrates that the attendance policies of both schools prohibit pupils from leaving the school premises during the school day without express permission. This means that pupils would not be able to leave the school to purchase lunch. I also recognise that, as the schools accommodate primary age children the majority will be accompanied to and from school by parents.
9. As High Greave School is located nearer to residential areas, in order to access the proposed takeaway, pupils would have to take a significant detour on their way to and from school, which would deter access via foot. Although a much shorter detour would be necessary for pupils attending the Pupil Referral unit, these children already have easy access to a number of existing fast-food takeaways in the immediate area. I also note that bus stops are located close to both schools and therefore many pupils will travel directly to and from the school using bus services.

10. The appeal site is not defined as a retail or service centre in Policy CS12 of the Rotherham Core Strategy (CS) (2014), however based on the evidence and my observations it is commercial in character. Whilst I note that there are already a number of hot food takeaways in the local area the Council has not provided any substantive evidence that there is an over concentration of such uses or that they are having an adverse impact on health, pollution or anti-social behaviour in this locality.
11. Although it does not provide hot food, the existing restaurant currently provides goods which are high in sugar and therefore do not provide a significantly more healthy alternative to the proposal. Moreover, as there are already a range of fast-food takeaways in the immediate area, the anticipated occupation of one additional unit would not, in my view undermine the overarching aims of the SPD with regards to the creation of a healthier community.
12. Thus, notwithstanding identifiable conflict with the relevant school distance threshold set out in the SPD, the specific case circumstances as discussed above lead me to find that the appeal site is not an unacceptable location for the proposal with regards to promoting a healthier community. As such, compliance with relevant provisions of the Framework is achieved. Furthermore, the proposal accords with the development plan and material considerations do not lead me to a decision otherwise.

Conditions

13. I have considered the Council's suggested conditions and where appropriate amended the wording to more closely align with the Planning Practice Guidance (PPG). The Council has suggested restrictions to trading hours in the interests of residential amenity. However, the residential properties are some distance from the appeal site, separated by a dual carriageway and other built development. I also note that such restrictions were not imposed on the existing drive thru or the adjoining takeaway units. No information has been submitted which suggests that the operation of the existing units has caused harm to the living conditions of residents and other users. Therefore, I do not consider that the imposition of such a condition is reasonable or necessary.
14. In order to meet legislative requirements, a condition shall be imposed to address the period for commencement (1). I have imposed a condition relating to approved plans for the avoidance of doubt (2). A condition is required in relation to operation in accordance with agreed cooking details and specifications (3) in order to ensure that the development is not detrimental to the living conditions of nearby residents and users in regard to odour.

Conclusion

15. For the reasons given above the appeal should be allowed.

C Skelly

INSPECTOR