



Appeal Decision

Site visit made on 21 July 2025

by C Housden BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2025

Appeal Ref: APP/M1595/W/25/3362188

1 Aire Drive, South Ockendon, Thurrock RM15 5AP

- 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 Mrs Ilesanmi against the decision of Thurrock Council.
 - The application ref is 24/00490/FUL.
 - The development proposed is change of use from shop (use class E) to hot food takeaway (sui generis).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the change of use of the appeal site is justified, having regard to the location of the site.

Reasons

3. The appeal site comprises a ground floor retail unit located within an existing neighbourhood centre which is defined as a smaller neighbourhood parade by Policy CSTP7 of the Thurrock Core Strategy and Policies for Management of Development (2015) (CSPMD).
4. In these areas, Policy CSTP7 seeks to maintain the existing retail function of the ground floor uses. This policy also sets out that the change of use to the ground floor retail units to non-retail will be permitted where it can be shown there is no long-term demand for the retail use of the unit, or, where there is a particular community need that would be met by the change of use.
5. I have been provided with the accounts for the financial years ending in March 2021, 2022 and 2023. These accounts show that the existing occupier of the site was not profitable in 2022 and 2023. However, the profitability of a single operator does not demonstrate that there is no long-term demand from the wider market for the retail use of the unit.
6. Therefore, it has not been sufficiently demonstrated that there is no long-term demand for the continued use of this unit in its existing use. Whilst the appellant has stated that healthy meals would be served from the proposed takeaway, there is also no evidence before me showing that there is a particular community need for the proposed takeaway in this particular location.
7. On this basis there is insufficient evidence before me to justify the change of use of the site, having regard to its location within a smaller neighbourhood parade.

8. The appellant has suggested the proposal would be supported by Policy CSTP8 of the CSPMD as it would create diversification and an improvement in the range and quality of facilities, and the hours of operation would promote vitality and viability of the neighbourhood parade.
9. However, a sui generis takeaway would operate materially differently than the existing use. A takeaway would serve a limited range of cooked food which would be consumed away from the premises. Policy CSTP7 specifically seeks to protect the existing retail function of the designated smaller neighbourhood parade. Therefore, a move away from the existing use to a sui generis takeaway would undermine and result in considerable harm to the function and purpose of the neighbourhood parade rather than provide positive diversification.
10. The development would therefore conflict with Policy CSTP7 of the CSPMD. This policy, amongst other matters, seeks to maintain the existing retail function of existing neighbourhood centres, including smaller neighbourhood parades.

Other Matters

11. The appellant highlights a fallback position of the unit being able to be used as a Class E(b) cafe¹. This would result in the loss of the retail use, and the appellant highlights the cafe could also have a takeaway element without the need for planning permission.
12. Both a cafe and retail shop fall within Use Class E. However, the appeal proposal before me is for a materially different sui generis use. It has not been demonstrated that the fallback position of using the site as a cafe would be more harmful to the function of the small neighbourhood parade than the proposed sui generis takeaway. Furthermore, should the fallback position be implemented as a cafe, a takeaway element used in conjunction with the Class E(b) use would be materially different than the appeal before me, which proposes to operate the entire unit as a sui generis takeaway. As such, the fallback position carries limited weight and does not diminish or otherwise justify the harm that I have identified.
13. The appellant has referred to a planning permission² whereby a number of ground floor units within Aire Drive were granted planning permission for a change of use from vacant units and retail units to residential. I have been provided with very limited details of this planning permission. I therefore cannot be certain if the circumstances of that planning permission are comparable to the appeal before me. As such, this permission carries very limited weight and does not make the harm to the function of smaller neighbourhood parade acceptable.
14. The appellant has also referred to an application at 6 Derwent Parade³ where the Council granted planning permission for a change of use to "Class E(b) Sale of food and drink for consumption (mostly) on the premises and Takeaway (Sui Generis) use". The appeal before me is for a materially different proposal relating to a different site. Each proposal should be considered on its individual merits which I have done so. Reference to this other planning application therefore does not persuade me that the development before me is acceptable or justify the harm that I have identified in relation to this specific appeal.

¹ As established by LPA ref 24/01196/CLOPUD

² LPA ref 99/00826/TBC

³ LPA ref 23/00934/FUL

Conclusion

15. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that for the reasons given above the appeal should be dismissed.

C Housden

INSPECTOR