



Appeal Decision

Site visit made on 19 April 2022

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2022

Appeal Ref: APP/H4505/W/22/3292304

York Road Fish Shop, 28 York Road, Barley Mow, Birtley DH3 2BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Manni Singh against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref DC/20/00752/FUL, dated 21 August 2020, was refused by notice dated 28 April 2021.
 - The development proposed is described as the extension of hot food unit. Formation of new vehicle access to the South of the site.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the health of the local community in terms of the availability of unhealthy food

Reasons

3. The appeal property is an existing hot food takeaway accommodated within a building of a typical semi-detached residential appearance, albeit with existing front, side and rear extensions and set back from the road, behind an area of open hardstanding. I noted at the site visit that a children's day nursery occupies another part of the property and the appellant details that a residential flat occupies the upper floor above the hot food takeaway.
4. Policy CS14 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2010-2030 (2015) (the Local Plan) is a broad policy which seeks to promote wellbeing and health through, amongst other things, controlling the location of, and access to, unhealthy eating outlets.
5. The Gateshead Council Hot Food Takeaway Supplementary Planning Document 2015 (SPD) identifies a high level of child obesity within the Borough of Gateshead. The SPD sets out 12 key principles for assessing the suitability of proposals for Hot Food Takeaways (HFT).
6. The officer's report refers, amongst other matters, to consideration 2 and 3 stating "hot food takeaways (Sui Generis) will not be granted in wards where more than 10% of year 6 pupils are classified as obese. Birtley ward has a year 6 obesity level of 11% (2015/16), which is higher than the target of 10% set by the Council and "where the number of approved hot food takeaway (Sui Generis) establishments, within the ward, equals or exceeds the UK national

average, per 1000 population. Birtley Ward had higher than the UK average number of HFTs per 1,000 people in 2015 when the SPD was adopted.”

7. The figures detailed within the SPD regarding child obesity are now of some age. The appellant has identified that borough wide levels have fallen slightly since the SPD was adopted but no substantive evidence has been submitted with regards the specific ward level, other than that detailed in the SPD.
8. The appellant does not dispute that the number of hot food takeaways in Birtley remains high, though it is noted that the appeal scheme is described as an extension to the existing hot food take away, as opposed to a new takeaway unit.
9. The appellant details that the extension is “to enable an upgrade in the shop’s cooking equipment making it safer and easier to clean, and to provide more space for staff and customers to facilitate better social distancing. New entrances would improve access for the disabled”.
10. While the size of the proposed extension to the existing hot food takeaway is limited, in itself and in proportion to the existing operation, the submitted plans show that an additional and separate serving and customer areas would be created, accessed by a separate entrance rather than a simple extension to existing facilities. Furthermore, an additional extract system is show for this additional serving area, suggesting the use of cooking equipment in this space. I note the use of a shared preparation area is indicated on the submitted plans.
11. As a result of the creation of separate additional access, customer and serving areas, albeit of a modest size and with a shared preparation area, it is my planning judgement that the appeal scheme would result in greater access and availability of unhealthy food and thus would harm the health of the local community. Therefore, I find that the appeal scheme is contrary to Policy CS14 of the Local Plan and the provisions of the SPD.

Other Matters

12. The appellant details that the appeal scheme would realise a number of benefits including improved disability access to the premises, working conditions for staff and reduced noise, disturbance and odour effects on the occupiers of nearby properties. These are material considerations that weigh in favour of the appeal scheme but do not outweigh the harm I have identified previously.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR