The Planning Inspectorate

Appeal Decision

Site visit made on 4 June 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2019

Appeal Ref: APP/R4408/19/3224595
14 High Street, Hoyland, Barnsley S74 9AB

- 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 Adem Aydemir against the decision of Barnsley Metropolitan Borough Council.
- The application Ref: 2018/0831, dated 14 June 2018, was refused by notice dated 13 September 2018.
- The development proposed is change of use from cafe (A3) to hot food takeaway (A5).

Decision

1. The appeal is allowed and planning permission is granted for change of use from cafe (A3) to hot food takeaway (A5) at 14 High Street, Hoyland, Barnsley S74 9AB, in accordance with the terms of the application, Ref: 2018/0831, dated 14 June 2018 and the plans submitted with it, subject to the following conditions:

    1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

    2) The development hereby permitted shall be carried out in strict accordance with the following approved drawings: SEA/001 Location Plan; SEA/002 Proposed Extraction Detail.

    3) The fume extraction system shall be implemented in strict accordance with the Proposed Extraction Details dated 19th July 2018 and the specification confirming the Fume Extraction System in the email to the local planning authority entitled 'RE: 2018/0831 14 High Street Hoyland - Change of use from cafe to hot food takeaway', dated 13th August 2018.

    4) Prior to commencement of the use of the development hereby permitted, there shall have been submitted to and approved in writing by the local planning authority a detailed scheme to control litter and minimise waste. The scheme shall provide details of packaging to be used, litter bin facilities to be provided and signage on the premises advising customers to dispose of litter appropriately. The measures as approved shall be retained and maintained thereafter.

Procedural Matters

2. The new Barnsley Local Plan (2019) (LP) has been adopted since the Council's decision. This supersedes the Barnsley Core Strategy (2011). Accordingly, in my assessment of the proposal, I have regard to relevant policy in the LP.

Application for costs

3. An application for costs was made by Mr Adem Aydemir against the decision of Barnsley Metropolitan Borough Council. This application is the subject of a separate decision.

Main Issue

4. The main issue is the effect of the proposed development on highway safety.

Reasons

5. The appeal site is an end terraced unit adjoining a fish and chip shop, located within Hoyland town centre. Hoyland town centre is designated in Policy TC1 of the LP as a District Centre. It includes a mix of shops, businesses, takeaways, an outdoor market, pubs and the Hoyland Centre with a library.

6. At the centre of the appeal is the matter of whether or not the proposal would result in an adverse effect on road safety and traffic flow, due to on-street car parking, close to the junction of High Street and West Street.

7. Policies D1 and T4 of the LP together require, amongst other things, development to provide safe access. The Barnsley Hot Food Takeaways Supplementary Planning Document (Consultation Draft 2019) (SPD) states in paragraph 4.12 that 'hot food takeaways tend to generate significant volumes of traffic, short term on street parking and associated vehicle turning movements. Where on-street parking would lead to highway safety problems, planning permission may be refused'. Whilst the SPD's weight is limited due to not having been adopted, its promotion of highway safety is broadly consistent with the objectives of D1 and T4.

8. The stretch of High Street which runs past the front of the appeal unit is a two lane, one-way road which is part of the busy Hoyland town centre road 'loop'. There is a bus stop with a kerbside yellow line in front of the appeal site. The wider 'loop' is substantially lined with double yellow lines, with limited provision for loading. There are a number of surface car parks located within a short walk of the appeal site, which serve the town centre.

9. The Council is concerned that the proposal would lead to a significant volume of short term, on-street parking and vehicle turning movements close to the junction of High Street and West Street, from those collecting or delivering pre-ordered food, 'irrespective of the highway parking restrictions in place'.

10. However, I see no reason why it would not be feasible for the management of the proposed takeaway to ensure that delivery drivers use the various safe parking alternatives close to the business, rather than pulling up in front of the unit. It would be unrealistic to 'guarantee' that no customer coming to collect an order would be tempted to pull up outside the proposed takeaway. However, parking restrictions are in place in front of the unit, and the nearby off-street surface car parks provide realistic alternatives for safe parking.

11. I recognise that the proposed takeaway unit is close to a junction where traffic enters the town centre 'loop'. However, there is not evidence before me of a track record of road safety incidents arising from customers and employees parking on double yellow lines on the town centre road 'loop', while servicing and visiting the variety of shops and takeaways in Hoyland town centre. Moreover, I note that the Council's highways advisor did not object to the proposal, and acknowledged 'public car parks within convenient walking distance' of the appeal site. The site is also accessible to regular bus services. Taking the above together, I find that, on balance, the proposal would not result in significant detriment to highway safety and flow.

12. In conclusion, the proposal would not harm highway safety. As such, in respect of highway safety, it would not conflict with Policies D1 and T4 of the LP, or the SPD. Together the policies and guidance seek to ensure, amongst other things that development provides safe access.

Other Matters

13. Community concern about the proposed development's effect on anti-social behaviour and obesity is noted. However, given the context of a town centre with a range of retail and takeaway business, I do not consider that the proposed takeaway unit would cause significant harm in these respects. Litter will be addressed by a planning condition.

14. Neighbouring business concern about odour from the proposed unit is noted. However, the proposed extraction unit has been assessed by the Council's Regulatory Services Section as appropriate to disperse fumes, and I see no reason to find otherwise. Moreover, implementation of the proposed fume extraction scheme will be secured by planning condition.

15. The proposal would bring a vacant unit into use. Community concern about proliferation of hot food takeaways, and the wish to achieve a suitable mix of businesses within the town centre, is acknowledged. However, the focus of this appeal is highway safety, and I assess the case on this basis.

Conditions

16. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. They have been broadly found to be reasonable and necessary in the circumstances of this case. I have made some minor drafting changes to suggested conditions in the interest of precision.

17. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans, in order to provide certainty. Conditions regarding fume extraction and litter are attached to safeguard the character and appearance of the area.

Conclusion

18. For the reasons above, I conclude that the appeal should be allowed.

William Cooper

INSPECTOR