
Appeal Decision

Site visit made on 24 September 2015

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 November 2015

Appeal Ref: APP/L5810/W/15/3022987
205 Waldegrave Road, Teddington, Middlesex TW11 8LX

- 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 Abdulmajid Popalzi against the decision of the Council of the London Borough of Richmond upon Thames.
 - The application, Ref. DC/SGS/14/3364/FUL, dated 7 August 2014, was refused by notice dated 27 November 2014.
 - The development proposed is for the display of an advertisement and a change of use from Class A1 for the operation of minicab office or private hire business from the site.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal on the application form includes a reference to the display of an advertisement. However, the appeal form explains that this has been granted and is no longer part of the proposal.
3. The appellant also refers to intentions for the premises other than that stated in the appeal application. I have referred to these in paragraphs 5 to 7 below.

Main Issues

4. The main issues are (i) the effect of the proposed change of use to a minicab office or private hire business on the vitality and viability of the local shopping area, (ii) the effect on traffic and parking conditions, and (iii) the effect on the living conditions for local residents as regards noise and disturbance.

Reasons

5. In his grounds of appeal the appellant explains that he has entered into a ten year lease on the premises and is concerned because he currently operates a business as a café only under temporary permitted development rights, a fact recognised by the Council in its appeal statement. There is an indication that he may wish to continue with a Class A3 use in the longer term as an alternative to the minicab office or private hire business and indeed the grounds of appeal appear to focus on this.
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6. The appellant's 'Final Comments' on the appeal provide further clarification: *'As stated previously the initial application for a Change of Use was to create and operate a Minicab Office from this site, however we have now changed our plan and have established a catering business instead. Therefore the permission sought will be used for the further carrying out of the coffee shop instead'*.
7. I have noted that the appellant has made a substantial investment in the premises and has improved its appearance considerably. I also have no reason to doubt his claim to have received strong support from the local community. However both the application and the appeal have been dealt with by the Council, including the carrying out of public consultation, as a proposal for a change of use to the minicab office or private hire business. I am therefore unable to consider the merits of an A3 business as part of the appeal.
8. In order to pursue this the appellant would need to take up the matter with the Council through another application, no doubt citing in support the business's popularity with local residents and the potential to complement the existing retail facilities with a catering or mixed catering / retail service that would appeal to local shoppers. However, the decision in the first instance would be for the Local Planning Authority, which would have regard to its planning policies and all other relevant factors. I recognise that a new application would take time and expense and that Government policy is to support small businesses and introduce more flexibility into the planning system. However I do not have any procedural or lawful authority to determine an appeal on the basis of a different use to that initially applied for.
9. Turning then to that proposed use, I consider on the first issue that an office for a mini cab or car hire service would not offer an 'active' frontage in the parade in a form likely to complement the shopping function. This applies both to the appearance of the unit and the type of activity it would generate. I agree with the appellant that it would be convenient for customers of the nearby pub but it would be unlikely to attract visitors to the centre in its own right, especially if as suggested all or most of the drivers are standing by at their own homes and drive from there to accommodate the booking.
10. As the Council points out, it would be more appropriate for the office to be located in a less central position, whereas in the appeal premises it would be at the expense of a retail use where it is important to retain a nucleus of shopping uses (or uses that would encourage more business at the local shops) to maintain the vitality and viability of the existing predominantly retail offer. The appeal scheme would therefore be in conflict with Policy DM TC 3 of the Richmond upon Thames Development Management Plan 2011.
11. On the second issue, the centre includes on street parking laybys but the demand for parking appears to be high and there is a likelihood of at least some increase in parking demand from office staff, drivers visiting the office and the collection of customers. However, whilst I have noted the concerns of local residents on this point I do not consider that a business operating with the drivers based other than at the office would necessarily cause either substantial parking or traffic problems. In this context I note that Government policy in the National Planning Policy Framework 2012 ('the Framework') is that development should only be prevented or refused on transport grounds where its residual cumulative impacts are severe. I do not consider this to be the case here.

12. In respect of noise and disturbance, the shopping centre already has a restaurant, takeaway and a public house and provided that the operating hours of the business are reasonably commensurate with their closing times I do not see any overriding reason to reject the scheme on this basis. As regards both traffic / parking and noise and disturbance I note that the Council has little faith in conditions on the basis of them being unenforceable. However the drawing up of an operation and management code for the business for the Council's approval before commencement could be the subject of a condition. I do not consider that compliance with this would be unduly difficult to enforce.
13. Taking the last two issues together, my view is that with appropriate conditions there would unlikely to be unacceptable effects on traffic and parking or the living conditions of local residents as regards noise and disturbance. There would therefore be no conflict with Policies DM TP 5, DM DC 5 of the Development Management Plan or with the Framework. However my favourable conclusion for the appellant on these matters does not outweigh my finding in respect of the harmful effect on the retail frontage and shopping centre of the introduction of a mini cab / car hire office.
14. I have had regard to all other matters raised but have found nothing to alter my conclusion that, on balance, the appeal should be dismissed.

Martin Andrews

INSPECTOR