



Appeal Decision

Site visit made on 15 October 2018

by **Tim Wood BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 November 2018

Appeal Ref: APP/J1535/W/17/3192260

38 High Road, Epping CM16 6BU

- 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 D Ozcan against the decision of Epping Forest District Council.
 - The application Ref EPF/2448/17, dated 24 April 2017, was refused by notice dated 6 December 2017.
 - The development proposed is the change of use from a post office (A1) to a take-away (A5).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this appeal is the effects of the proposal on neighbours, in relation to the proposed hours of use and in relation to cooking smells.

Reasons

4. The appeal relates to the ground floor of this 2/3 storey property, wherein the upper floors are in residential use. The properties in the surroundings comprise a mixture of residential and commercial uses. Along High Road the commercial uses are generally a ground floor, are small and do not form a continuous frontage but are interspersed with residential properties. The overriding impression within the immediate locality is one where residential uses predominate with some small and low-key commercial uses, although I recognise that more commercial uses are present elsewhere on High Road, and within parades of such uses.
5. The proposed ground floor use would have a residential use above and a residential use to the side at No 40 and 40A. There is a small shop to the other side and residential use beyond that. It should be recognised that in an area such as this where both residential and commercial uses are present, that commercial uses may reasonably generate a degree of activity that is greater than a residential use. However, some balance must be struck and in a

- predominantly residential area such as this, the effects of commercial activity must be taken into account.
6. The nature of the proposed use as a take-away would inevitably involve customers visiting in numbers and departing from the premises. It can be a characteristic of such uses that customers would congregate outside in the immediate vicinity and consume the food that has been bought. In addition, I consider that it is likely that some customers would arrive by car and would park in close proximity to the premises. In my judgement, the sum of all this activity would be considerable, when compared to the predominantly residential character of the area.
 7. I appreciate that the appellant has amended the proposed hours of use from that in a previously refused proposal and that business would now finish at 21:00hrs. However, I consider this to be beyond a time when surrounding residents could reasonably expect a greater degree of peace and quiet, when commercial activity would be less. Having taken careful account of the representations and to the character of the area, I consider that the likely levels of activity would represent an unreasonable disturbance to surrounding residents, contrary to Policy DBE9 of the Local Plan and Alterations.
 8. The potential for cooking smells to disturb neighbours has been considered by the appellant and the Council. The appellant has submitted a statement and specification in order to provide extraction and ventilation for the proposed use. Whilst I can understand the concerns raised by local residents in particular, on the evidence submitted I have no reason to doubt the appellant's evidence that the proposed system could be designed and installed so that no unreasonable effects arise from the cooking smells. Therefore, this does not add to my concerns.

Conclusions

9. For the reasons given above, I consider that the proposal would be likely to give rise to unreasonable levels of noise and disturbance which would have an unacceptable effect on the living conditions of neighbours. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR