



Appeal Decision

Site visit held on 15 May 2000

by **M C Bradshaw**

MA (Cantab) DipTP MRTPI Hon FRIBA

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions



23 MAY 2000

Appeal Ref: T/APP/R5510/A/00/1038523/P8

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal of planning permission.
- The appeal is brought by Pizza Hut (UK) Ltd against the Council of the London Borough of Hillingdon.
- The site is located at 78 Green Lane, Northwood.
- The application Ref: 7278R 99 2086 dated 30 September 1999 was refused on 7 January 2000.
- The development proposed is the change of use from Class A2 "Financial and Professional Services" to Class A3 "Food and Drink".

Summary of Decision: The appeal is allowed and planning permission granted subject to the conditions set out in the formal decision.

Procedural Matters

1. The original application included alterations to the shopfront. I note, however, that these were subsequently removed from the proposal prior to determination, and that the signage shown on the application drawings was provided for information purposes only, and does not form part of the proposed development. For clarification, I have dealt with the appeal on that basis.

The Main Issues

2. I consider the main issue in this case to be the effect of the proposal on pedestrian and highway safety and the free flow of traffic.

The Development Plan

3. The Development Plan for the area includes the Hillingdon Unitary Development Plan (UDP) adopted in 1998. Policy S14 indicates that, in secondary shopping areas, permission will be granted for defined service uses, which include A3 food and drink, where the remaining retail facilities are adequate to accord with the character and function of the shopping centre, and where the proposal will not result in a separation of Class A1 uses or a concentration of non-retail uses which might harm the viability or vitality of the centre. The acceptability of an A3 use is also subject to the considerations set out in Policy S8. These

require that there should be no unacceptable loss of amenity to nearby residential properties, and that there should be no harmful effect on road safety, worsening of traffic congestion, or disruption of bus operations.

4. In addition, Policy AM6 states that permission for development will not be granted where, amongst other things, traffic generation is likely to prejudice the free flow of traffic or conditions of general highway or pedestrian safety. I regard this and the Policies above as relevant to the appeal.

Reasons and Conclusions

5. The appeal site is situated at a corner location at the eastern end of a secondary shopping frontage and comprises part of former bank premises (Class A2). The Council acknowledges that there would be no loss of an A1 unit, and no change either in the existing separation of A1 uses, or the concentration of A3 uses as a result of the scheme. It therefore accepts that the proposal would not be prejudicial to the vitality and viability of the centre.
6. In terms of residential amenity, the concerns of those living above the appeal premises and nearby are understandable. However, the property is of solid construction, and I accept the Council's view that conditions could be imposed which would ensure adequate sound attenuation and insulation, and secure control of smells and odours, including that arising from refuse and waste. General disturbance could also be maintained at acceptable levels by the imposition of limitations on hours of operation and delivery.
7. The main issue, and the Council's principal concern, is the effect of the proposed change of use on highway and pedestrian safety. An A3 use by its nature can be expected, in my opinion, to create a significant demand for relatively short-term, on-street parking, although I also note the emphasis in this case on home delivery by moped and the fact that waiting times are likely to be longer than a more conventional fast food outlet. Based on the evidence from a sample of the appellant's network of similar outlets elsewhere, approximately 80% of delivery takeaway journeys could be expected to take place during the evening. It is argued on this basis, and on the presumption that the outlet would perform at the average levels of the nationwide network (120 units), that the A3 use would generate approximately 9 visits per hour at peak times (Friday and Saturday between 18.00 hours and 23.00 hours) and 4 per hour at other times.
8. The Council points out that these rates and the level of consequent parking demand could be twice as high if the appellant's most successful outlet (Islington) is taken as a yardstick. Whilst acknowledging this as a worst case possibility, the size and characteristics of the catchment areas concerned are significantly different, and such evidence as is before me on these factors I regard as inconclusive. In the circumstances, I regard it as acceptable to take the average level of customer visits as drawn from experience elsewhere (which is above the actual sales estimate for this unit), as a reasonable basis against which to assess the likely level of on-street parking demand and the capacity of the area to meet it. The centre is, in any event, very well served by public transport, with Northwood underground station being less than 100 metres from the site. It is reasonable to presume that at least some proportion of visits would be made on foot, so that if the unit were more successful than anticipated, this would not necessarily be reflected in increased parking demand.

9. Most of the streets in the vicinity of the appeal site are subject to either permanent parking restrictions by means of double yellow lines (including the junction of Green Lane and Hallowell Road immediately in front of the appeal site) or to restrictions between 08.00 hours and 18.30 hours by means of single yellow lines. Daytime parking for this part of the centre is provided by a pay and display facility on the service road off Green Lane (8 spaces), by a small number of metred spaces also on Green Lane, and a short length of business permit space on Hallowell Road. Some space is also available during the day on single yellow lines on this road, which is subject to an experimental scheme reducing the restricted period to between 13.00 hours and 14.00 hours. More extensive, longer-stay facilities are provided elsewhere in Northwood town centre.
10. At the time of my site visit (mid morning) there was no evidence of undue pressure on the more local space available, which is short-term and subject to a frequent rate of turnover. Bearing in mind that the parking demand for the proposed use would be relatively light during the day, I take the view that an A3 use at these times, even if the experimental scheme on Hallowell Road were to be discontinued, would not create noticeable additional demand or be likely to cause congestion and increased risks to highway safety.
11. During the evening, when demand for the proposed use would be at its greatest, on-street parking would, in my opinion, be readily achievable using, in addition to daytime spaces, the single yellow lines on the north side of the service road, on Green Lane (30 metres east of the site), on Eastbury Road (approximately 120 metres from the site), and on Hallowell Road. It is accepted that demand for such space in the evening from residents, particularly those living above the shops at Rowland Place and Chester Place, is likely to be greater than at other times. However, this would be offset, in my judgement, by the reduced evening demand associated with this part of the shopping centre, which contains only one existing late opening outlet. Even if the approved restaurant use at Nos 11 and 12 Rowland Place were to be implemented, the on-street parking capacity in the vicinity is such that the risks of illegal and potentially dangerous parking causing hazards to traffic, referred to by the Council and some of the nearby residents, would be very small.
12. In coming to that view, I have taken account of the fact that there is no evidence before me, either in the form of traffic volumes or accident records, to suggest that any of the road junctions nearby, including that immediately outside the appeal site, give rise to traffic problems. The proposed use may, as the Council argues, generate some increase in pedestrian flow across Green Lane, but traffic is relatively slow-moving, and given the pelican crossing only some 60 metres from the appeal site, the increased risks arising from this factor seem to me to be negligible.
13. My conclusions on the main issue therefore are that the capacity of nearby streets to meet the increased parking demand likely to be generated by the proposed use, both during the day and in the evening, is such that, in my opinion, unacceptable risks to highway and pedestrian safety and the free flow of traffic would not arise. Consequently, I intend to allow the appeal.

Conditions

14. In addition to those conditions to which I have referred, the Council recommends, in the event of an approval, that music or similar amplified sound shall not be such as to be audible

to adjacent or nearby residential premises, which I support on grounds of protecting local amenity. The Council additionally seeks a restriction on the permission preventing any further change of use to a wine bar or public house, which I also support on similar grounds. So far as litter is concerned, I acknowledge that the particular use proposed and its mode of operation is likely to limit such a nuisance, but it will not eliminate it, and I therefore agree with the Council's condition that a litter bin be provided. With regard to opening hours, I consider that residents should be particularly entitled to reasonable peace and quiet on Sundays and on Bank or Public Holidays, and intend to impose a condition requiring more restricted hours on those days. Finally, I accept the importance of ensuring the adequacy of facilities for people with disabilities, and intend to add a condition to that effect. I have modified certain of the Council's recommended conditions, in the interests of precision and enforcement.

Other Matters

15. I have taken account of all other matters drawn to my attention, including the reference to an appeal decision in 1996 at Ruislip Manor. The junction adjacent to the appeal site is described in that case as an accident black spot where the increased risks of hazardous parking appear to me to be quite different to those likely to arise in this appeal. I have otherwise found nothing of sufficient weight to override the factors which have led to my decision.

Formal Decision

16. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for change of use from Class A2 "Financial and Professional Services" to Class A3 "Food and Drink" at 78 Green Lane, Northwood, in accordance with the terms of the application (No 7278R/99/2086) dated 30 September 1999 and the plans submitted therewith, subject to the following conditions:

1. the use hereby permitted shall commence not later than the expiration of five years from the date of this letter;

2. the premises shall not be used for the preparation, sale or despatch of food outside the following times:

08.00 hours to 23.00 hours Mondays to Saturdays

09.00 hours to 22.00 hours on Sundays and on Bank or Public Holidays

3. no deliveries shall take place to the premises outside the following times:

08.00 hours to 18.00 hours Mondays to Fridays

08.00 hours to 13.00 hours on Saturdays

not at all on Sundays or Bank or Public Holidays;

4. no music shall be played or sound amplification equipment operated in any part of the premises at any time so as to be audible outside the premises;

5. notwithstanding the provisions of Article 3 of the Town and Country Planning (Use Classes) Order 1987, the premises shall not be used as a wine bar or public house;
6. before the use hereby permitted begins, equipment for the ventilation of the premises, the suppression of smell and the extraction of fumes shall be installed and operated in accordance with a scheme to be submitted to and agreed by the local planning authority and shall thereafter be permanently maintained;
7. before the use hereby permitted begins, measures for the provision of sound insulation against internally generated noise, including that generated by equipment or machinery, shall be implemented in accordance with a scheme to be submitted to and agreed by the local planning authority, and thereafter permanently retained;
8. before the use hereby permitted begins, facilities for the storage and disposal of refuse and waste shall be provided at the premises in accordance with a scheme to be submitted to and agreed by the local planning authority;
9. a litter bin or bins shall be provided at the premises at a location to be agreed with the local planning authority;
10. development shall not commence until details of access to and within the building to meet the needs of people with disabilities have been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the submitted details before the use hereby permitted commences;
17. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally, or if the authority fails to give notice of its decision within the prescribed period.
18. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.



INSPECTOR

