

Permission for the Change of Use to a A5 Hot and Cold Food Takeaway With New Shop Front at 43 London Road, Chesterton. Mr N Felstead

Application Number: 12/00243/FUL

LPA's Decision: Refused at Planning Committee on 10 July 2012 with the decision dated 11 July 2012

Appeal Decision: Appeal Allowed

Date of Appeal Decision: 3 December 2012

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 12/00243/FUL) and the following is only a brief summary.

The Inspector considered the main issues to be:

- The effect of the proposal on the vitality and viability of the district centre of Chesterton.
- The effect of the proposal on the living conditions of residents in the area with specific reference to the potential for noise, disturbance, nuisance and anti-social behaviour.

In **allowing** the appeal, the Inspector made the following comments:

- Applications for changes from retail (A1) to non-retail use in locations such as this require consideration to be given to the cumulative effects of such changes on the range of goods and services offered in the locality, as detailed in policy R15 of the Local Plan.
- As confirmed by the Council, it is important to maintain the vitality and viability of district centres such as Chesterton, which provide a variety of day-to-day uses and services to local people.
- The Council has undertaken an 'informal' land use survey of the district centre. The results show, were the premises to be used as a takeaway, there would still be a majority of A1 units within the district centre, with only 5 out of the 23 units identified by the Council as comprising the centre, being in A5 use.
- All in all, whilst the Inspector noted the concerns of the Council and local residents, he was satisfied that, even if the appeal premises were to be used as a takeaway, A5 uses would still continue to make up a relatively modest proportion of the overall total number of units. Therefore, it is concluded that the proposal would not have a material adverse effect on the vitality and viability of the district centre.
- In terms of the impact on living conditions it is accepted that there are residential properties in the vicinity but the Council confirms that the appeal site lies within a Category C2 area, defined by the SPG on Hot Food Takeaways.
- Whilst the Council, police and local residents have concerns in relation to noise, disturbance and anti-social behaviour, those concerns appear to relate to the premises being open until the early hours of the morning.
- The Inspector recognised that customers may linger outside takeaway premises after they have closed. However, no substantive evidence was presented that led the Inspector to suppose that one additional takeaway, where there are already 4 others that open in the evenings, with opening hours restricted to those set out in the SPG, would lead to any material increase in general activity, anti-social behaviour, noise or disturbance in this mixed use area. The hours of operation can be controlled by condition were the appeal to succeed.
- Accordingly, given the mixed character of the area, the nature of other uses in the vicinity, and the proximity of the premises to a busy road, the Inspector was satisfied that the scheme would not, subject to conditions, cause unacceptable harm to the living conditions of local residents.

RECOMMENDATION

The decision should be noted and the comments of your officers also.