



Appeal Decision

Site visit made on 19 May 2025

by **J Pearce MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th June 2025

Appeal Ref: APP/K2230/W/24/3358243

66-68 Singlewell Road, Gravesend, Kent, DA11 7PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Navkiran Dhinsa against the decision of Gravesend Borough Council.
 - The application Ref is 20240838.
 - The application sought planning permission for variation of condition 6 attached to planning permission reference number 20200131 for works to refurbish and subdivide the existing ground floor A1 Unit, to form part Change of Use to A5 (Hot Food Takeaway) and remaining unit to A1/A2 accommodation including changes to the existing shop front and hard standing. To allow; opening of the premises between 08:00 to 21:00 Monday to Sunday without complying with a condition attached to planning permission Ref 20240277, dated 21 May 2024.
 - The condition in dispute is No 2 which states that: The A5 use hereby permitted, including any associated deliveries to the premises shall be restricted to between the hours of 08:00 and 21:00 daily. There shall be no deliveries to customers from the premises in association with this use at any time nor any collection of food to take away outside of these stated hours and all on site activity shall cease 60 minutes after closing to customers.
 - The reason given for the condition is: To safeguard the amenities of occupiers of adjoining and nearby properties and in accordance with saved Policy S7 of the Gravesend Local Plan First Review 1994 and Policy CS19 of the Gravesend Local Plan Core Strategy 2014.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application form states that the appeal site address is '66-68 Singlewell Road', whereas the appeal form refers to the site as 'Chicken Kingz, 66-68 Singlewell Road' and the decision notice refers to the site as 'DEHA Mortgages, 66-68 Singlewell Road'. I have taken the address from the application form as this is sufficiently precise and consistent with the previous applications at the site. I do not consider that this has prejudiced any of the parties and I have proceeded on this basis.

Background and Main Issues

3. Planning permission was granted under application reference 2020131 for works to refurbish and subdivide the existing ground floor A1 Unit, to form part Change of Use to A5 (Hot Food Takeaway) and remaining unit to A1/A2 Accommodation including changes to the existing shop front and hard standing. This included, at condition 6, restricting the hours of operation and that there shall be no deliveries to customers from the premises in association with the use at any time nor any collection of food to takeaway outside of the stated hours.

4. Condition 6 was subsequently varied under application reference 20240277, to extend the hours of operation to 0800 to 2100. Application reference 20240838, submitted under Section 73 of the Town and Country Planning Act 1990, then sought to vary condition 2 of application reference 20240277, to allow for deliveries to customers from the premises between the permitted hours.
5. The main issues are the effect of the proposal on:
 - the living conditions of the occupants of neighbouring dwellings, with regard to noise and disturbance; and
 - highway and pedestrian safety.

Reasons

Living conditions

6. The appeal site consists of a ground floor hot food takeaway. The hot food takeaway is part of a larger building, which includes other commercial premises. Within the building is a residential property, with further dwellings close to the site on either side of Cross Lane East.
7. The proposal seeks to allow for a delivery service to operate from the site during the hours of 0800 and 2100 on a daily basis. The service would provide local deliveries only, and would take place using either a bicycle, electric cycle or by foot. This would restrict noise generation at the site as well as promoting sustainable modes of transport.
8. The delivery service would increase activity to the front of the premises. However, the mode of transport proposed would limit the noise generated by the movements at the site. With the restriction of deliveries to the permitted hours, the proposal would safeguard the living conditions of the occupants of the nearby residential properties.
9. Nevertheless, there is no mechanism before me that would ensure that deliveries would take place using bicycles, electric cycles and by foot. In order to impose a condition that would limit the mode of transport for deliveries, I must have regard to the tests set out in Paragraph 57 of the National Planning Policy Framework (the Framework). This states that any conditions should only be imposed where they meet the six tests, including that the condition would be enforceable.
10. I have not been presented with the wording for a precise condition that would be enforceable for restricting the modes of transport for deliveries. The use of the specified sustainable modes of transport would be a positive aspect of the proposal, and would assist in supporting a local business. However, it may not always be practical for deliveries to take place using only the stated transport methods and motorised vehicles may be preferred. I am therefore not convinced that such a restriction could be effectively monitored and a condition would not be enforceable in this case. Consequently, in the absence of any substantive evidence, including a Noise Impact Assessment, I cannot be certain that the proposed delivery service would not generate harmful levels of noise and disturbance.
11. I therefore cannot conclude that the proposal would not harm the living conditions of the occupants of neighbouring dwellings, with regard to noise and disturbance.

The development therefore conflicts with Policy CS19 of the Gravesham Local Plan Core Strategy 2014 (CS), which requires that new development will be located, designed and constructed to safeguard the amenity of those of neighbouring properties and avoid adverse environmental impacts, including noise pollution.

Highway safety

12. The site is on a corner close to the junction between Singlewell Road, Cross Lane East, and Cross Lane West. The junction is controlled by traffic signals, including pedestrian crossings. The site includes a small forecourt, separated from the carriageway of Cross Lane East by a pedestrian footway. Three cycle racks are positioned on the forecourt.
13. The Inspector in a previous appeal¹ noted that the forecourt could be accessed via an existing narrow dropped kerb close to the traffic signal-controlled junction. The Inspector went on to consider that the use of the dropped kerb by delivery scooters would be likely to cause confusion to other road users. Moreover, accessing the site would cause obstruction in the highway close to a busy road junction and therefore adversely affect the safe and efficient operation of the junction. I see no reason to take a different view.
14. The deliveries would take place using bicycles and electric cycles rather than scooters. In addition, the appellant states that only a single delivery person would be used and that the deliveries would be subject to protocols, which may reduce the frequency of movements associated with the service. The egress of delivery cycles and pedestrians from the site would be likely to be a safer alternative for pedestrians using the footway than the previously proposed use by delivery scooters.
15. However, the movements in accessing the site from the highway either by bicycle or electric cycle would be similar to those of a scooter. This would likely involve using the existing dropped kerb and manoeuvring across the pedestrian footway and would lead to a similar level of risk, notwithstanding the suggested protocols. Furthermore, there is no mechanism before me to restrict the mode of transport to certain modes of transport.
16. The site includes three existing cycle racks to the forecourt. Given the proposed modes of transport for the delivery service, the development would accord with Policy CS11 of the CS Saved Policy P3 of the Gravesham Local Plan First Review Saved and Deleted Policies Version 2014, which collectively state that sufficient parking will be required and should normally be made on the development site.
17. The proposal would have an unacceptable effect on highway safety. The development therefore conflicts with the Framework, which states, amongst other things, that development should ensure that safe and suitable access to the site can be achieved for all users.

Planning Balance

18. The appellant has provided supporting information that outlines the benefits of the proposal, including that there is demand for a delivery service and that the delivery service would be an ancillary aspect of the premises. Moreover, the appellant

¹ APP/K2230/W/19/3237591

highlights that the site is managed in respect of anti-social behaviour and the proposal would provide a boost to the economy primarily through the creation of employment. Nevertheless, given the limited scale of the proposal, the modest benefits would not outweigh the harm identified.

19. The appellant has referred to other appeal decisions, including sites at Echo Square, and case law relating to the use of conditions. I have not been presented with the specific details of the cases referred to and consequently I am unable to make reasonable comparisons with the scheme before me. In any event, each case must be determined on its own individual merits with appropriate regard to the development plan and material considerations, which I have done in this case.

Conclusion

20. The proposal conflicts with the development plan. The material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR