



# Appeal Decision

Site visit made on 26 March 2008

by **Stephen Job** MA DipTP MRTPI

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

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**Decision date:**  
**10 April 2008**

**Appeal Ref: APP/K2230/A/07/2054416**

**153 Whitehill Road, Gravesend, Kent DA12 5LS**

- 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 T Arunthavacheluam against the decision of Gravesham Borough Council.
- The application (Ref. GR/20070342), dated 30 March 2007, was refused by notice dated 16 July 2007.
- The development proposed is a change of use from retail shop (Class A1) to hot food takeaway (Class A5).

## Decision

1. I dismiss the appeal.

## Main Issues

2. I consider that there are two main issues in this case. The first is the effect that the proposed change of use would have on the retail character and function of 147-155 Whitehill Road. The second is the effect that the proposed change of use would have on the living conditions of nearby residents with particular reference to noise and disturbance, and odours.

## Reasons

### *Retail character and function*

3. The appeal site lies within a small shopping parade (five units) in a residential area. The parade is defined as a local centre in the Gravesham Local Plan First Review and I note that saved policy S6 of the local plan states that the Council will generally resist applications resulting in the loss of shopping units in local centres, while saved local plan policy S7 states that Class A3 uses should not cluster with other similar uses to create a dead frontage. (Policy S7 refers only to A3 uses. This is because the local plan was adopted before an amendment was made to the Town and Country Planning (Use Classes) Order 1987 dividing Class A3 into three classes – A3, A4 and A5. Despite that amendment I consider that the policy remains relevant to the proposal before me.)
4. Two of the units in the parade (nos. 149 and 151) are already in hot food takeaway use. Accordingly the appeal, if allowed, would result in three consecutive units out of five not being in retail (Class A1) use. It seems to me that, were I to allow the appeal, it would further limit the capacity of this local centre to meet local shopping needs.
5. On the first main issue I therefore conclude that the proposed change of use would have an adverse effect on the retail character and function of 147-155

Whitehill Road and would be in conflict in this respect with saved local plan policies S6 and S7.

*Living conditions of nearby residents*

6. The majority of the units in the parade have flats above them and the surroundings of the site are predominantly residential.
7. Typically an A5 use generates relatively high levels of vehicular and pedestrian activity and trades well in the evenings. According to the application form the intention is to open from 1000 to 2300 seven days a week. Slightly more restricted hours are specified in the appellant's statement – closing at 2230 Mondays to Saturdays. At the same time the statement indicates that closing at 2100 would be acceptable 'solely as an alternative to refusal'.
8. There are two existing hot food takeaways in the parade currently. Consequently I would expect there to be a certain amount of noise and disturbance in the evenings already - from vehicle movements and parking, and from customers congregating outside the premises. However, I do not consider that the presence of two such uses means that a third would be unnoticed. It seems to me that a third hot food takeaway (even one required by condition to close at 2100) would be likely, at least to a degree, to add to general noise and disturbance occurring outside the parade in the evenings and as a consequence be harmful to residential amenity in this location. I do not consider that the harm would be greatly mitigated by the fact that the parade benefits from a forecourt and a parking lay-by. I note that the appellant would accept a condition requiring the unit to be sound-insulated, but this would not address noise and disturbance outside.
9. The possible adverse impact of cooking odours is a further matter of concern both for the Council and interested persons. However, had I been minded to grant permission, it would have been open to me to impose a condition to secure the installation of suitable ventilation and fume extract equipment. I consider that such a condition would have been capable of addressing the concerns expressed about odours sufficiently.
10. On the second main issue I therefore conclude that the proposed change of use would have an adverse effect on the living conditions of nearby residents by reason of noise and disturbance (although not by reason of odours). In this respect it would be in conflict with saved local plan policy S7.

*Other matters*

11. Concerns have been expressed about a number of other matters, including traffic, parking, litter and the threat posed to existing businesses. I have had regard to these concerns, but they have not lent further weight to my overall conclusions.
12. Both the main parties support their cases with a number of previous appeal decisions relating to sites elsewhere. In my experience the circumstances in one case seldom match exactly those in another. Having read the submitted decisions I am confirmed in this view. I have considered this case on its own merits.

**Conclusions**

13. For the reasons given above I consider that the appeal cannot succeed.

*Stephen Job*

INSPECTOR