



Appeal Decision

by Richard James Bsc (Hons) Msc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 29/11/2023

Appeal reference: CAS-02624-K9D1M8

Site address: Cwmbran Stadium Sports Centre, Henllys Way, St Dials, Cwmbran, NP44 3YS

- 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 Simon Wilson against the decision of Torfaen County Borough Council.
 - The application Ref 23/P/0013/FUL, dated 9 January 2023, was refused by notice dated 14 March 2023.
 - The development proposed is described as 'the siting of a mobile wood fired pizza van in a position in the gravel car park at Cwmbran Stadium'.
 - A site visit was made on 26 September 2023.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. For conciseness, I have taken the description of development from the Council's Decision Notice.

Main Issue

3. This is whether the location of the development is justified having regard to local and national policies which seek to direct retail and complementary uses to designated centres, and which promote sustainable transport.

Reasons

4. The appeal site is located in the corner of an overspill carpark serving Cwmbran Stadium and Sports Centre ('the stadium'). It lies outside of Cwmbran's Town Centre Boundary, as designated within the Torfaen County Borough Council Local Development Plan (LDP). The proposal would serve hot pizza's between 17:00 and 21:00 Monday to Sunday, including Bank Holidays, and includes a coned area for pedestrian access to the serving hatch of the van.
5. The appellant states the proposal's targeted customer base would be those using the stadium after its own cafe closes at 4pm. The local representations made in support of the proposal, which highlight the proposal's convenience for those using the stadium supports this contention. However, there is no cogent evidence that customers would be mainly from the stadium. Given that the proposal has convenient parking facilities and is close to residential areas on the outskirts of Cwmbran, it would also be accessible to a wider general public beyond the stadium. It is also partly visible from Henllys Way which

would be likely to promote passing custom from those unrelated to the stadium. It is therefore necessary to consider the wider needs and sequential policy objectives associated with the 'town centre first' approach, as set out in Future Wales (FW) and Planning Policy Wales Edition 11 (PPW). These seek to direct new retail and commercial development to within centres defined in the development plan. PPW is clear that food and drink uses are 'complementary' uses which should be treated in a similar manner to retail uses. PPW paragraph 4.3.18 advises that by adopting a sequential approach first preference should be to locate new development within a retail and commercial centre defined in the development plan hierarchy of centres.

6. In accordance with national policy, LDP Policy RLT4 aims to control out of centre retail development so as to minimise competition with, and impact on, shopping centres identified in the retail hierarchy. It provides for the development of small-scale retail uses where a) there is an identified lack of facilities in the area; b) there is no harm to the vitality and viability of any centre identified in the retail hierarchy; and c) the development is located to allow a wide cross-section of the shopping public to use the facility. This policy complements other policies of the LDP, including policy S9, which aims to protect and enhance the role and function of designated centres within the identified retail hierarchy; and policy S2, which amongst other things, seeks to reduce reliance on private motor cars and encourage the use of more sustainable modes of transport.
7. The Council identifies numerous hot food establishments as suitable alternatives to the proposal, located within an 800m (10-minute walk) distance from the appeal site. These include other takeaway pizza services with similar opening times to the proposal. Little evidence has been submitted by the appellant to demonstrate that the proposal provides a type of service that is not otherwise available locally, or to contest the suitability of the identified alternatives. Based on the evidence before me, there would not appear to be an identified lack of local facilities in the area.
8. I saw that the proposal would be located close to other industrial and commercial development, including the neighbouring 'Webuyanycar' kiosk, which would also attract cars to the site and general area. However, the appellant acknowledges that an industrial estate is primarily used during normal working hours. Limited evidence is submitted to indicate that the operating hours of the proposal would coincide with these neighbouring uses to serve a wide cross section of the shopping public, or those working in the locality.
9. Given its small floorspace and restricted opening hours, the number of trips generated by the proposal would be limited and by itself it would be unlikely to harm the overall vitality and viability of the Town Centre, or any other designated centre within the retail hierarchy. Nonetheless, such developments can also have a cumulative effect, and PPW and FW are clear that a sequential approach is required that puts the health and vibrancy of town centres and the defined retail hierarchy at the forefront of decision making. In this case, there is no tangible evidence that a sequential test has been carried out and therefore there is very little to demonstrate that other feasible sites within designated centres have been explored and/or discounted.
10. The 'town centre first' principle embodied in FW seeks to direct facilities and services to where intended users can easily walk, cycle and /or use public transport to access them. The appeal site would be within walking distance from numerous residential properties, when also applying an 800m walking distance catchment as used above. However, the majority of residents would be located on the outer fringes of this catchment. Many would need to walk or cycle along main arterial routes that prioritise vehicles, with typically faster and free flowing moving traffic. This would be unlikely to encourage active travel choices for a wide cross section of the public. I saw two bus stops located along Henllys Way opposite the site, although little information has been provided to demonstrate that

public transport would provide a realistic travel option during the proposed opening hours. In particular the Council's evidence on the limitations of the bus timetable is not robustly challenged by the appellant. As such, based on the available information, I consider that most customers would likely travel to the proposal by car.

11. The appellant has referred to numerous other planning permissions and retail units in operation. I am unaware of the specific circumstances under which nearby commercial premises outside the Town Centre Boundary gained planning permission. Furthermore, appeals must be determined on their individual merits which will inherently differ, for example in their location and size. I therefore afford these examples limited weight.
12. I conclude that the location of the proposal has not been sufficiently justified, having regard to local and national policies which seek to direct retail and complementary uses to designated centres and which promote sustainable transport. The proposal would therefore be contrary to LDP policies RLT4, S9 and S2.

Other Matters

13. I have had regard to the local representations that object to the proposal and raise concerns over highway safety, a lack of parking provision, lighting, additional litter and public health. However, there is a lack of cogent evidence to demonstrate the proposal would be unacceptable for these reasons.
14. The lack of objection from the management of a nearby Nursing Home is of neutral weight to this appeal. I note the benefits of the proposal for the existing business and, indirectly, the local economy, which has been raised by local representations in support of the proposal. However, given the lack of substantive evidence before me, and the limited benefit to the wider economy arising from the small scale of the development, I afford this matter little weight. This, along with the support of the stadium's management for the siting of the proposal, would not justify the conflict with the development plan and national planning policy.

Conclusion

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.
16. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

Richard James

INSPECTOR