



## Appeal Decision

Site visit carried out on 1 December 2017

**by Mrs J A Vyse DipTP DipPBM MRTPI**

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

**Decision date: 14 December 2017**

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**Appeal Ref: APP/T2350/W/17/3178610**

**2A Whittingham Road, Longridge, Lancashire PR3 3JA**

- 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 Mrs S Aziz against the decision of Ribble Valley Borough Council.
  - The application No 3/2017/0220, dated 20 February 2017, was refused by a notice dated 16 May 2017.
  - The development proposed is described on the application form as transfer of current shop to a hot food premises – takeaway.
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### Decision

1. For the reasons that follow, the appeal is allowed and planning permission is granted for use of 2A Whittingham Road, Longridge, Lancashire as a hot food takeaway in accordance with the terms of the application, No 3/2017/0220, dated 20 February 2017, subject to the conditions set out in the attached schedule.

### Main Issue

2. This relates to the effect of the proposed change of use on highway safety.

### Reasons for the Decision

3. The appeal premises comprise a modest retail unit within a small single storey group of commercial premises fronting on to the roundabout junction of Whittingham Road (B5269) and Derby Road (B6244). At the time of my visit, other uses in the group included a barbers/hair and beauty establishment, a café and a fish and chip shop.
4. The Council advises that the roundabout junction is busy, particularly during the morning and evening peak hours, and that there is a poor accident record here. However, other than a comment that two accidents involved pedestrians emerging from between parked cars, no detailed evidence is before me. For instance, there is no indication as to what time of day/day of week or over what period the two incidents referred to occurred. Neither is there any information as to the timing, nature, cause or frequency of any other incidents.
5. During my visit, I saw that parking is restricted by double yellow lines along the highway in front of the commercial units on the corner here, as well as on other arms of the roundabout. However, on-street parking is available within a short distance of the appeal premises, on the opposite side of this part of Whittingham Road and on nearby roads, including Chatburn Road. Although parking on nearby streets would require a short walk to the premises, this

- would be in the region of around 50 metres and in my experience would not be a prohibitive distance for even a short visit to a takeaway.
6. Intended opening would be between 16.00-23.00 hours and thus the business would be open during the evening, when there would, it seems to me, be demand for on-street parking from residential occupiers along the respective roads. However, the residential nature of the area also means that it is reasonable to assume that many potential customers may live locally and would walk to the premises, or may have their purchase delivered. In any event, no evidence is before me to demonstrate that any increase in parking arising from visitors driving to the proposed takeaway, which visits would be for a short duration, could not be accommodated within the existing on street parking provision, a short distance from the appeal site.
  7. I recognise that parking on the forecourt area in front of the shops may have implications for pedestrian safety as vehicles cross the footway. However, this is an existing arrangement and there is no evidence to demonstrate that operation of the existing uses here, including the fish and chip shop, have impacted adversely on pedestrian safety, with the only two incidents referred to relating to pedestrians emerging from between parked cars. Moreover, the application relates to premises which can lawfully be used for A1 retail purposes. Such a use would also be likely to attract at least some car-borne customers in any event.
  8. It is suggested that customers may ignore the on-street parking restrictions and may risk parking on the double yellow lines in contravention of existing waiting restrictions. However, my decision is made on the basis that those restrictions would be enforced by the relevant authorities.
  9. All in all, in the absence of any compelling evidence to support the Council's concerns, I am satisfied that any increase in demand for parking could be accommodated and that the development proposed would not represent a danger to highway safety, even having regard to cumulative impact in connection with existing uses. There would be no conflict, in this regard, with policies DMG1 and DMG3 of the Ribble Valley Core Strategy 2008-2028 (adopted December 2014) which together and among other things require that consideration is given to traffic and car parking implications, with all development proposals to be provided with adequate parking and servicing.

### **Other Matters**

10. The appeal site lies within the Longridge Conservation Area, which is a good example of a Lancashire industrial town, containing mainly C19th stone buildings along three principal streets. I consider that its special interest, and thus its heritage significance, derives largely from its buildings and their layout.
11. The development proposed comprises the change of use of a modern retail premises which, of itself, would not have any effect on the character or appearance of the Conservation Area. In terms of physical alterations to facilitate the proposed use, the only external alterations indicated on the submitted plans comprise a replacement extraction flue on the rear, although the detail provided in terms of its appearance is very sketchy. Given the presence of extraction equipment at the rear of other premises in the group, I am satisfied that, in principle, the replacement flue need not, subject to an

appropriate condition, harm the character or appearance of the Conservation Area.

12. Local residents raise concerns relating to youths gathering, litter, noise, nuisance and odours. The main activity associated with the proposed use would be concentrated to the front of the premises. Although the site lies within a residential area, it fronts onto a busy roundabout, at the junction of two main roads, with no residential accommodation above, the units here being single storey. In that context, I consider, subject to conditions restricting opening hours to those applied for, that the proposed use need not be of significant consequence in terms of noise and anti-social behaviour.
13. In relation to odours, a new extraction system is proposed. No objection is raised by Environment Health in this regard and I have no reason to suppose that a modern extraction system would not be able to deal satisfactorily with cooking odours. With respect to concerns over littering, I did not observe there to be any particular related problems in the immediate vicinity at the time of visit, even though there is fish and chip shop in the group here. In the absence of any definitive evidence on the matter, I give this only limited weight in reaching my conclusion.
14. Other comments suggest that there is no need for another take away in the immediate locality. I recognise that there is a fish and chip shop and a café within this short parade. However, the planning system does not exist to stifle competition. I therefore give this matter very little weight.

## **Conclusion**

15. For the reasons set out above, I conclude that the appeal should succeed.
16. The Council has suggested five conditions in the event of such an outcome. In addition to the standard condition relating to timing for commencement of development, it is necessary to control opening hours in order to protect the living conditions of local residents. For the same reason, but also to protect the character and appearance of the Conservation Area, a condition requiring further detail of the proposed fume extraction equipment is needed.
17. Whilst the Council suggests a condition specifying the plans to which the permission relates, such a condition is not necessary where an application relates solely to change of use. Another condition suggests that the premises shall be used only as a hot food takeaway (Use Class A5) and for no other purpose. I am mindful, in this regard, that the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) allows for change of use of Class A5 hot food takeaways to other uses, including uses falling within Class A2 financial and professional services and Class A3 (restaurants and cafes) without the need for planning permission. Whilst the Council asserts that uses other than a hot food takeaway could have implications for neighbour amenity and/or the character and appearance of the Conservation Area, the precise nature of those concerns is not articulated anywhere.
18. It is not clear to me how any of the uses permitted by the GPDO would necessarily impact on those interests. However, the parking pattern for use as a restaurant or café use would be different from the short duration parking associated with a hot food takeaway, with implications for highway safety (and,

potentially, the living conditions of local residents who rely on on-street parking provision particularly, it would seem to me, in the evenings and at weekends). Similarly, customers of a financial or professional services establishment may have longer term parking needs that could not, necessarily, be readily met in this location. It is in the light of the absence of any dedicated off-street parking for such uses that I consider the suggested condition to be necessary.

*Jennifer A Vyse*  
INSPECTOR

**Schedule of Conditions**  
**APP/T2350/W/17/3178610**  
**2A Whittingham Road, Longridge, Lancashire**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The use hereby permitted shall only take place between 16:00 – 23.00 hours on any day.
- 3) Notwithstanding any detail shown on the submitted plans, the use hereby permitted shall not commence unless and until a scheme to control the emission of fumes and smell from the premises has been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
- 4) The premises shall be used as a hot food takeaway only (Use Class A5) and for no other purpose (including any other purpose allowed for by Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Part in any statutory instrument revoking and re-enacting that Order with or without modification).

-----END OF CONDITIONS SCHEDULE-----