

REPORT TO MINISTER FOR PLANNING AND ENVIRONMENT

by **N McGurk** BSc (Hons) MCD MBA MRTPI,
an Inspector appointed by the Judicial Greffe

Site visit made on 27 August 2024. Hearing held on 28 August 2024.

Reference: P/2023/0314

3 and 4 Centre Point, La Route des Genets, St Brelade, JE3 8LB

- The appeal is made under Article 108 against a decision made under Article 19 to refuse planning permission.
 - The appeal is made by Domino's Pizza Group Plc against the decision of the States of Jersey.
 - The application Ref P/2023/0314 by Domino's Pizza Group was refused by notice dated 14 March 2024.
 - The proposed development is a change of use of existing Coffee Shop to Hot Food Takeaway. Various internal and external alterations to include glazed door and screen replacement to East elevation. Install A/C, chiller unit, exhaust and air intake grille to North elevation. Remove extraction grilles to West elevation.
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Recommendation

1. I recommend that the appeal be upheld and that planning permission be granted, subject to conditions.

Introduction and Procedural Matters

2. This Report refers to the Planning Department as "*the Department.*"
 3. The Bridging Island Plan, adopted on the 25th March 2022, is referred to in this Report as "*the Island Plan.*"
 4. The appellant, Domino's Pizza, has an existing hot food takeaway in St Helier. The Department's Highways advisor's representations state that this existing operation has caused significant concerns in terms of disruption to the highway and parking manoeuvres.
 5. However, no substantive evidence was provided to substantiate this point and it was established during the public hearing that the Department has not pursued any actions or issued any notice to the operator in this regard.
 6. Notwithstanding this, I note that the location of the St Helier store, which is adjacent to the highway and which does not have an immediately adjacent public car park, is significantly different to that of the proposal the subject of this appeal.
 7. The summaries of the various cases set out below are neither exhaustive nor verbatim but summarise main points made by the relevant parties. In reaching the recommendation set out in this Report, I have considered all of the information before me.
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Case for the Appellant

8. The proposal is for a main town centre use in a sustainable location, where hot food takeaway uses are directed to by planning policy.
9. The proposal would be within a unit occupied by a cafe which generates a number of existing vehicle movements and parking demands.
10. The site has accessible, safe car parking in close proximity. This can provide for delivery drivers, staff and customers. There is also an area for safe and sufficient servicing. Levels of servicing will not differ from the existing use.
11. Robust highways evidence has been submitted. This demonstrates no unacceptable increase in traffic and that the proposal can be accommodated without harm to the local highway network. The proposal thus accords with Island Plan Policy TT1.
12. The site is accessible by means other than the private car.
13. The proposal would be served by an appropriate level of parking and meets the requirements of Island Plan Policy TT4.
14. The proposal has been refused without any evidence to contradict that supplied in support of the proposal.
15. The proposal would ensure that an existing commercial unit will remain occupied and contribute to the vitality and viability of the Les Quennevais centre, as well as provide employment opportunities.
16. The appeal property has an established use and could be used for other uses that would generate a greater number of short-term vehicle trips, for example a convenience store, without the need for planning permission.

Case for the Department

17. Delivery drivers would be unlikely to use adjacent parking, given the distance to the premises.
18. The Department does not agree with the highways evidence provided. The Department considers that the highways evidence provided is insufficiently detailed.
19. Another operation by the same appellant has caused significant concerns to the Department in terms of disruption to the highway and parking manoeuvres.
20. Existing locations for motorcycle parking is unlikely to be used in practice because it is not reserved for the exclusive use of the proposed development. There would be no provision for covered bicycle or motorcycle parking on site.
21. The Department considers that indiscriminate fly-parking will take place in inappropriate locations causing accessibility issues to other users and there would be a risk that illegal parking would take place across fire access points.
22. The Department considers that vehicles will pull onto the kerb, obstruct pedestrians, wheelchairs, prams and bicycles and that there will be parking in the road when the car park is full.

23. The adjacent car park can be congested and the proposal would make this worse.

24. The Department considers that there are current problems with loading and unloading in the busy shopping centre which have not been addressed.

25. The Department states that the application was not refused due to the lack of parking provision, but for traffic generation and highway safety.

Other Comments

26. Other representations to the appeal were received from Messrs Nash, P Williams and L Williams.

27. These note that it is impossible to predict the volume of traffic based on current businesses, as they close at various times from 3pm to 6pm and on Sundays; that Les Quennevais is not comparable to St Helier/St Saviour in terms of population and road networks; that the current coffee shop closes at 2pm and misses traffic between 3-4pm and 5-6pm, when it is difficult to exit from the car park; the car park is often busy and people don't want to park elsewhere; there is a need for more servicing areas and traffic calming; new employment opportunities are not desirable; and the proposal would not add to vitality.

Main Issue

28. The main issue in this case is the effect of the proposed development on highway safety.

Reasons

29. The appeal site comprises a two storey building with a coffee shop on the ground floor and a residential unit above. It forms the end of a small row of commercial units. There is a pub to one side of the appeal site and to the other side, in the commercial row, there is a hairdressers, an opticians and a large retail unit.

30. There is a small paved area directly in front of the appeal site which fronts a public car park and beyond which there is a private car park. The car park immediately adjacent to the site is accessed directly from La Route des Genets, close to its junction with La Route de Quennevais.

31. The appeal site is located in the Built-Up Area and falls within the defined centre of Les Quennevais. The Island Plan specifically supports town centre uses in this location and states that it will:

"...enable and encourage the development of new retail and complementary town centre activities, such as leisure and entertainment, arts and culture and daytime and evening economy uses within the defined centre of Les Quennevais." (Page 155, Island Plan).

32. Further, Island Plan Policy ER4 ("*Daytime and evening economy uses*") specifically supports – and the Policy's supporting text actively encourages¹– the provision of daytime and evening economy uses, including food and drink takeaways, within the defined centre of Les Quennevais.

¹ Reference: Page 161, Island Plan.

33. The proposal seeks a change of use from a café to a hot food takeaway. The Island Plan supports and actively encourages the development of hot food takeaways in Les Quennevais centre.
34. By their very nature, commercial uses in centres attract people and movement. In the case of the proposed development, it would attract customers who choose to pick up their pizzas and would require a small number of staff and delivery drivers.
35. Proposed opening times would be 1100 hours to 2300 hours, similar to the pub located next door to the appeal site. Evidence has been provided to demonstrate that the busiest hours of operation – when most customers would collect or require pizzas to be delivered – would be around tea-time, between 1700 hours and 2000 hours. The busiest days would be Friday and Saturday.
36. Located within the defined centre of Les Quennevais, the appeal site is situated in a sustainable, accessible location. It can easily be reached on foot, by bicycle, by public transport and by private vehicle. Given this, customers seeking to pick up their takeaways would be able to do so in a variety of ways.
37. For those wishing to drive to pick up their takeaway, there is an immediately adjacent car park. Between 1700 hours and 2000 hours (the busiest time for the proposed use), the adjacent hairdressers, opticians and large retail store would generally be closed. Consequently, there would likely be parking spaces available in an immediately adjacent public car park.
38. In addition to this, there are also several additional car parks and parking areas within a couple of minutes' walk of the appeal site.
39. Island Plan TT1 ("*Integrated and safe and inclusive travel*"), requires development to be safe, inclusive and accessible to all users and modes of transport.
40. Whilst the location of the proposed development within the defined centre of Les Quennevais results in it meeting Island Plan Policy TT1's requirements in respect of inclusivity and accessibility, it is the view of the Department's Highways advisor that the proposal would harm highway safety.
41. In this respect, the appellant has submitted significant and comprehensive evidence to demonstrate that there would be no unacceptable increase in traffic associated with the proposal and that consequently, it can be accommodated without harm to the highway as required by Island Plan Policy TT1.
42. This evidence was explored during the public hearing.
43. The population in and around Les Quennevais is considerably less than that in and around St Helier. In this regard, it has been demonstrated to be reasonable to conclude that the population of the proposed development's catchment area – based on population and accessibility – is around one third of that of an equivalent operation in St Helier.
44. However, the appellant, in its evidence, has assumed that trade would reach 40% of the levels achieved by the current St Helier takeaway. Noting the above, I find that this approach provides for a considerable margin of error.

45. In addition, the appellant's highway modelling assumes that every customer order would generate a single vehicle trip – either by collection or via delivery. This would clearly not be the case and it adds significantly to any margin of error, to the benefit of the robustness of the appellant's highway modelling.
46. Efficiency will dictate that some deliveries, especially at busier times, would be to more than one customer at a time; and the proposed development's easily accessible location in the centre of Les Quennevais will inevitably mean that not every single customer collection would be by private vehicle.
47. Even taking these notable safeguards in the approach to highway modelling into account, at the very busiest times, for example, between 1800-1900 on a Saturday, the maximum number of trips (modelled as 48 arrivals and departures) based on every customer travelling by private car and every return delivery journey being to a single customer, would not have a detrimental impact on the highway network.
48. On consideration of the evidence before me, I find the modelling provided by the appellant to be robust. I am also mindful that the Department's Highways advisor has provided no substantive evidence to the contrary.
49. Similarly, whilst the Department's Highways advisor also considers that the proposal would lead to safety issues within the car park adjacent to the proposed development, there is little in the way of substantive evidence to support the opinions provided. In contrast, the appellant has provided detailed information in respect of how the immediately adjacent car park and the availability of additional private car parking spaces would provide for sufficient and safe parking.
50. Evidence has been provided to demonstrate that, even at the busiest times, there would be sufficient car parking spaces for customers and delivery drivers within the immediately adjacent car park. This is notwithstanding the presence of other public car parking spaces within very easy walking distance of the proposed development.
51. In this regard, I note that it is not the case – and it would be very unusual if it were – that every takeaway within the Island's two main centres have immediately adjacent public car parking. Consequently, I consider that the presence of substantial immediate public car parking, along with additional public car parking within very close proximity, is a factor that stands very strongly in favour of the proposed development.
52. Noting this, further to consideration of all of the evidence before me and having visited the appeal site at various times on different days, I am satisfied that the proposed development is well-located in respect of car parking for customers and for delivery drivers.
53. Further in this regard, I am also mindful that the appellant has agreed to lease four private car parking spaces for its staff in the private car park adjoining the adjacent public car park, meaning that staff need not take up spaces within the public car park. Also, during the course of the public hearing, the appellant explained that as well as operating its own code of practice in respect of the management of its operations it is supportive of the imposition of an appropriate parking management condition.

54. Consequently and taking all of the above into account, I find that the proposed development would not result in harm to highway safety and that it would not be contrary to Island Plan Policies TT1 or TT4.

Other Matters

55. Whilst the Department's representation referred to problems with loading and unloading in the busy shopping centre which have not been addressed, no substantive details were provided in respect of what these problems comprise, how they relate specifically to the proposed use and why the proposed development should address them.

56. Notwithstanding this, the appellant has pointed out that servicing will not differ from the current use and there is no evidence that the servicing of the current use results, or has resulted, in harm to highway safety or in any other harm.

Conditions

57. During the Hearing it was agreed that there is no reason not to impose the two standard planning conditions normally imposed by the Department, requiring development to commence within three years of the decision date and requiring development to be carried out in accordance with approved plans. The appellant and the Department concurred with this approach.

58. A parking management condition has been proposed by the appellant. This sets out a requirement for a Parking Management Strategy to be agreed. This should include details relating to the parking of staff and delivery vehicles to avoid parking on the nearby public highway. The Department considered and agreed with the wording of the proposed condition, subject to a minor comment in respect of who should approve it in writing.

59. In this latter regard, I note that it is usual practice for approval to be provided in writing by the Chief Officer and I see no compelling reason to change this. I note that the Chief Officer is likely to be advised internally prior to signing and that such advice may involve consultation between internal Departments. There is no need for the Condition to reference such internal advice or consultation.

60. Taking all of the above into account, I recommend the imposition of the following condition in addition to the two standard conditions:

Condition 3. Prior to first operational use of the takeaway hereby permitted a Parking Management Strategy shall be submitted to and agreed in writing by the Chief Officer. The Parking Management Strategy shall include details relating to the parking of staff and delivery vehicles to set out measures to avoid convenience parking on the public highway. On approval, the Parking Management Strategy shall be implemented in accordance with the agreed details and thereafter retained in perpetuity unless otherwise agreed in writing by the Chief Officer.

Reason: In the interests of highway safety and amenity.

Conclusion

61. For the reasons set out above, I recommend to the Minister that the appeal be upheld and that planning permission be granted.

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PLANNING INSPECTOR