

Planning Committee Report	
Planning Ref:	FUL/2021/1925
Site:	39 Beech Tree Avenue
Ward:	Westwood
Proposal:	Erection of a shelter to allow social distancing queueing (reduced in size from previous refusal) (retrospective)
Case Officer:	Darren Henry

SUMMARY

The application seeks planning permission for a shelter that has been erected to the front and side of the hot food takeaway to provide shelter for customers who are queueing.

This is a retrospective application that seeks to retain the shelter in a modified form with a further reduction to that previously refused.

BACKGROUND

The application was previously considered by Planning Committee on 2nd September where the resolution was to defer the application so that it could be reconsidered when the outcome of the appeal is known.

Two previous applications of a similar nature have been refused, the original retrospective application, reference F/2020/2542, and a resubmission for a reduced sized shelter, reference F/2021/0264.

An appeal was made against application F/2021/0264, reference APP /U4610/W/21/3276746. No start date had been confirmed when the application was presented to Planning Committee in September, however, the appeal has now been determined and has been dismissed.

KEY FACTS

Reason for report to committee:	Initially presented as Cllr Lapsa requested the application to go to Committee and a petition with over 100 signatories of support of the shelter has been submitted to the Council after the application was submitted.
Current use of site:	Hot Food Takeaway (Chip Shop)
Proposed use of site:	To erect a shelter to allow customers to que outside the chip shop and maintain social distancing

RECOMMENDATION

Planning committee are recommended to Refuse planning permission for the reasons set out within this report.

REASON FOR DECISION

- A poorly designed conspicuous element in a prominent location that is to the detriment of the existing character of shop frontages and the street scene, contrary to Policy DE1 of the Coventry Local Plan and paragraphs 130 and 134 of the NPPF 2021.

APPLICATION PROPOSAL

The shelter has been erected with the following dimensions:

- Length: 8.3 metres,
- Width: 6.1 metres,
- Height: 2.6 metres

The application seeks retention of the shelter with reduced dimensions:

- Height: 4.05 metres,
- Width: 5.7 metres,
- Height: the same as already built structure

The shelter has been constructed from:

- Timber panels painted dark grey, and
- Corrugated plastic sheeting.

SITE DESCRIPTION

The application site is on the southeast corner of Beech Tree Avenue and Elm Tree Avenue. The premises serve as a Chip Shop and is adjacent to Nisa convenience store. Of the four road junctions, there are shops on three of them. A characteristic feature of all these shops is that they are well set back from the highway by approximately ten metres and they are all flush. None of the shops come forward of any other. Whilst there are a number of shops, the area is not a defined local centre.

PLANNING HISTORY

Application Number	Description of Development	Decision and Date
L/1995/0362	For the retention of store for hot food takeaway	Approved on the 20/04/1995.
F/2020/2542	Erection of a shelter to allow social distancing (retrospective)	Refused on the 21/12/2020.
F/2021/0264	Erection of a shelter to allow social distancing (reduced in size) (retrospective)	Refused on the 03/02/2021.

POLICY

National Policy Guidance

National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. The NPPF increases the focus on achieving high quality design and states that it is "fundamental to what the planning and development process should achieve".

The National Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents are read together.

Local Policy Guidance

The current local policy is provided within the Coventry Local Plan 2016, which was adopted by Coventry City Council on 6th December 2017. Relevant policies relating to this application are:

DE1: Ensuring High Quality Design

R6: Restaurants, bars and Hot Food Takeaways

SPD: Hot Food Takeaways

CONSULTATION

There has been no further consultation since the application was presented to Members on 2nd September 2021.

APPRAISAL

The main issues in determining this application were previously advised as principle of development, design and visual, highways issues and equality implications. These matters were all considered when the application was previously presented to Planning Committee. The application was deferred so that it could be reconsidered when the outcome of the appeal is known. The Inspector supported the Council's refusal and the appeal was dismissed. The Inspector considered the main issue to be the effect of the proposal on the character and appearance of the area.

Character and appearance

Section 12 of the National Planning Policy Framework 2021 (NPPF) outlines the Government's commitment to good design and attaches great importance to the design of the built environment, highlighting it as a key aspect of sustainable development. Decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative; however new developments should seek to promote or reinforce local distinctiveness. Decisions should address the connections between people and places and the integration of a new development into its existing environment. Consequently, decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

The NPPF further states that "where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development". However, "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents" (134).

Policy DE1 of the Coventry Local Plan 2016 states that "All development proposals must respect and enhance their surroundings and positively contribute towards the local identity and character of an area".

The application which was subject of the appeal was smaller than the one that has been erected on site and proposed a pitched roof above the structure.

The Inspector concluded that:-

“The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. For the above reasons, the appeal is dismissed.”

In reaching that conclusion the Inspector noted that the commercial uses at this junction, including the appeal site, have open frontages which, because of their prominent positions in the street, are clearly visible in local views and create a sense of openness. The Inspector noted that this contrasts with the residential properties in the area which generally have frontages closer to the highway and are more enclosed.

The north facing elevation of the development would be almost as wide as the appeal property and would not therefore be subservient in scale to the host property. Together with its projection in the street this was considered to appear unduly dominant and harmful to the open character. Given the prominent location of the site the Inspector considered the harm would be particularly acute.

The Inspector also considered that the grey painted timbers would give the shelter a makeshift appearance which would contrast awkwardly with the more permanent appearance of the appeal property and other buildings nearby. They therefore agreed with the Council’s assessment that the development would appear incongruous.

The applicant forwarded a justification for the shelter as a means to provide social distance during Covid. The Inspector considered that, given that customers could queue outside the premises and at a distance apart without the shelter in situ, the shelter is not needed to facilitate social distancing. They therefore had no doubt that the development would protect customers from inclement weather which would be good for business. However, they considered that there was nothing within the evidence before them to suggest that a shelter is needed to maintain a viable business, nor that a shelter of the size proposed is required for this reason.

The Inspector further advised that “all in all, the development would be contrary to Policy DE1 of the Local Plan (2017) which seeks development that respects and enhances its surroundings and positively contributes toward the local identity and character of an area.”

The application which was considered at appeal proposed a reduction in scale to the shelter that has been erected. The application that is currently under consideration also proposes a reduction in scale. The overhang to the side is proposed to be removed but there would be a further projection towards the street frontage. The shelter currently proposed is not considered to be of a better design than that which was dismissed at appeal with both being incongruous with poor materials and make-shift appearance. The current application does not overcome the Inspector’s reasons for dismissing the appeal.

It is therefore considered that the application be refused for the same reasons as the previous applications and in line with the Inspector’s decision.

Equality Implications

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development.

CONCLUSION

It is therefore recommended that permission be refused.

REASON FOR REFUSAL

The proposed development is contrary to Policy DE1 of the Coventry Local Plan 2016 and the guidance and objectives of paragraphs 130 and 134 of the NPPF and National Design Guidance by reason of its design, appearance, external facing materials and siting which has resulted in a conspicuous and incongruous feature of overall poor design and appearance into this highly prominent location to the serious detriment of the visual amenities of the street scene and the wider locality.