



Appeal Decision

Site visit made on 20 August 2007

by **Graham E Snowden BA BPhil Dip**
Mgmt MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.
gov.uk

Decision date:
28 August 2007

Appeal Ref: APP/H0738/A/07/2043736

704 and 706 Yarm Road, Eaglescliffe, Stockton-on-Tees, Cleveland TS16 0JE

- 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 William Gate against the decision of Stockton-on-Tees Borough Council.
- The application Ref 06/3640/FUL, dated 1 December 2006, was refused by notice dated 12 March 2007.
- The development proposed is the change of use to hot food takeaway (Use Class A5).

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are the effect of the proposed change of use on, firstly, the living conditions of nearby residents in terms of noise and disturbance, fumes and cooking odours and, secondly, on the safety of users of Yarm Road.

Reasons

3. The appeal property is an elongated single storey unit, fronting a heavily trafficked classified road (A135), just north of its junction with a further classified road (A67). It is currently vacant, but was last used as a retail bathroom showroom. The site to the north has recently been developed as residential apartments (Parklands Court), including a three storey block on the Yarm Road frontage, which immediately abuts the appeal property. Residents of this latter block are, in my view, likely to be most prone to potential disturbance from the proposed use.
 4. Given the property's location on a busy through route, and adjacent to a public house, with residential areas nearby, I anticipate that custom is likely to be both pedestrian and car-borne. Late at night, this would inevitably generate some boisterous activity and noise and disturbance from vehicle movements in close proximity to Parklands Court. There is likely to be a significant level of traffic on the A135 during the evening and there will be existing noise from vehicles approaching or pulling away from the nearby traffic lights. Nevertheless, I consider that the noise and disturbance from activities associated with the proposed use, in close proximity to residential property, is likely to cause a degree of nuisance at a time when a greater degree of peace and quiet would be expected.
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5. In addition, given the height of the appeal property, I am not convinced that ventilation and extraction facilities could be installed in a manner which is not only visually acceptable, but achieves an extraction point at a high enough level to satisfactorily mitigate the nuisance effects of fumes and cooking odours. In combination with the noise and disturbance identified, I consider that the potential effect on the living conditions of nearby residents, would be sufficiently detrimental to render the proposal unacceptable and in conflict with criterion (ii.) of both Policy GP1 and Policy S14 in the Stockton-on-Tees Local Plan (Local Plan).
6. There are no roadside parking restrictions on the A135 immediately adjacent to the appeal premises, but I noted that, at this point, the carriageway and footway narrows and most cars parked partly on the footway, impeding pedestrian movement and causing pedestrians to move onto the road. Vehicles parked off the footway would also force northbound traffic into the path of oncoming traffic. I consider that both possibilities would lead to potential conflict situations, particularly during the hours of darkness, when the proposed use would be at its busiest. I acknowledge that the premises could be re-used for retailing purposes, but I consider that the operating hours would be likely to be somewhat different from a proposed takeaway. In my view, the latter would involve a greater concentration of vehicular activity and levels of roadside parking.
7. I note that there has been an objection from the Council's highway engineers and I agree that the proposal would be likely to result in problems for the safety of users of Yarm Road, contrary to criterion (iii.) of Policy GP1 and criterion (i) of Policy S14 in the Local Plan.
8. Furthermore, Local Plan Policy S17 discourages the loss of local shopping facilities. Whilst the previous use would appear to be aimed at a wider than local customer base, the proposal clearly conflicts with this proposal, as little firm evidence has been produced to show that the need for a retail unit here no longer exists or that the facility is no longer viable. Policy S14 also states that outside defined retail centres, A5 uses will only be permitted if there are no suitable units available within such centres or there are other justified exceptional circumstances. No case has been made out to me to justify a departure from the terms of this Policy.
9. The appeal property is located within the Egglecliffe Conservation Area. It is no part of the Council's case that the proposal would be harmful to the character or appearance of the Conservation Area and I agree. I have also taken into account the local support for a takeaway facility presented to me, but neither of these factors affect my overall conclusion that the appeal should be dismissed.

G E Snowdon

INSPECTOR