



## Appeal Decision

Site visit made on 25 September 2007

by **Christopher John Checkley**  
BA(Hons) MRTPI

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

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Decision date:  
11 October 2007

**Appeal Ref: APP/H0738/A/07/2046377**

**30 Dovecot Street, Stockton-on-Tees, TS18 1LN**

- 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 Mandale Commercial Ltd against the decision of Stockton-on-Tees Borough Council.
- The application Ref 06/3800/COU, dated 15 December 2006, was refused by notice dated 7 March 2007.
- The development proposed is change of use from retail to restaurant and bar with takeaway facility.

### Decision

1. I dismiss the appeal.

### Main issue

2. The main issue is the effect of the change of use of the ground floor premises upon the vitality and viability of Stockton Town Centre.

### Reasons

3. The ground floor shop premises at 30 Dovecot Street lie on the north side of the street almost directly opposite West Row, within the Secondary Shopping Frontage (SSF) of Stockton Town Centre, defined in the Alteration No 1 to the Stockton-on-Tees Local Plan (the ALP). The ALP was adopted in March 2006, in the context of revised national retail guidance in PPS6 (2005). The premises lie very close to the edge of the Primary Shopping Frontage (PSF) which extends east beginning at No 24 on the north side of the street and east from West Row on the south side.
4. Policy S5 sets out the criteria under which changes of use will be allowed within the SSF from retail to Classes A3, A4, A5 and other non-retail uses. Criterion (ii) indicates that the additional use should result in no more than 40% of the total sum of the length of street frontages being in non-retail use. The ALP written justification indicates that the percentage should be calculated for the SSF as a whole: 60% of the SSF should be retained in retail use to prevent retail decline from adversely affecting the viability of the Town Centre as a whole. The Annual Monitoring Report 2005/2006 says that at March 2006 the SSF had only 52.6% of its length in retail use, contrary to this criterion.
5. The appellant has calculated the percentage as a whole for all the various frontages either side of Dovecot Street, including frontages within the PSF (i.e.

the northern sections of the street lying either side of the entrance to Wellington Square and the initial sections within Wellington Square itself). On this localised basis and taking into account the "worst case scenario" regarding the permissions applicable to vacant units, the appellant calculates that the non-retail level would become 45%, some 5% over the Policy S5 threshold. However, I find this an inappropriate way of assessing the state of the SSF in the immediate frontages, since it exaggerates the strength of the retail percentage by including parts of the PSF, some being within separate frontages. I also saw on my visit that Pacitto's (No 21/23) opposite the appeal site is primarily an A3 non-retail use rather than an A1 retail use, and that the appeal site premises and No 34/36 are no longer vacant but in Class A1 and Class A2 uses respectively. Therefore, if the appeal were to be allowed, I find that the non-retail element of both the SSF and the local frontages would significantly exceed the 40% figure.

6. At the detailed level, the appeal premises lie within that part of the SSF comprising Nos 26-40 Dovecot Street. Assuming that the adjacent vacant ground floor premises at Nos 26/28 are put to non-retail use under the extant permission for a restaurant and bar with takeaway facility, then all 5 adjoining premises making up this section of the defined SSF would become non-retail uses, contrary to criterion (iv) of ALP Policy S5 that seeks to prevent a continuous group of more than 4 non-retail uses. Indeed, only one small unit (No 24) within the 8 making up the whole of the northern frontage between western end of Dovecot Street and Wellington Square would remain in retail use. Although PPS6 indicates that secondary frontages provide greater opportunities for a diversity of uses, this scheme would result in an over-dominance of non-retail uses.
7. I have taken account of all the other matters raised in favour of the scheme. The use of the appeal premises as a jewellers (Curios) at the time of my visit suggests that there is in fact demand from retailers for these premises. The scheme would bring benefits. First, the scheme would assist the night-time economy in this area close to the Arc entertainment venue which lies the other side of the busy carriageway at Nelson Terrace. Second, although there is an approved scheme for comprehensive improvement to the façade of Nos 26/28/30 that would potentially enhance the appearance of the Town Centre Conservation Area and the setting of nearby listed buildings, there is no evidence that its implementation is dependent on approval of the appeal proposal. In any case, I find these benefits to be firmly outweighed by the clear harm that would result to the retail character of the Conservation Area and the Town Centre.
8. I conclude that the change of use proposed would result in an over-concentration of non-retail uses in the immediate shopping area and a lessening of its retail attraction, to the detriment of the vitality and viability of the town centre. This would be contrary to the objectives and provisions of ALP Policy S5.

*C J Checkley*  
INSPECTOR