



Appeal Decision

Inquiry held on 11 March 2008
Site visits made on 10 and 12 March
2008

by **M Middleton BA (Econ) Dip TP Dip Mgmt**
MRTPI

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

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Decision date:
16 April 2008

Appeal Ref: APP/H0738/A/07/2052530
Springs Health and Fitness Club, Teesside Retail Park, Stockton-on-Tees,
TS17 7BQ

- 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 Cleola Ltd against the decision of Stockton-on-Tees Borough Council.
- The application Ref 06/3648/FUL, dated 1 December 2006, was refused by notice dated 11 May 2007.
- The development proposed is redevelopment to provide a bulky goods, non food retail warehouse unit with car parking, access and landscaping.

Decision

The appeal be dismissed.

Main issues

1. I consider the main issues to be:-
 - (a) Whether there is a clearly defined need for the proposed floorspace in the catchment area that it would serve and if so
 - (b) Whether a sequentially more preferable site would be available within a reasonable period of time,
 - (c) The effect of the proposal on the vitality and viability of Stockton-on-Tees Town Centre and Thornaby District Centre and
 - (d) Whether the proposed development would be accessible by a choice of means of transport and assist in reducing the need to travel by car.

Reasons

2. The appeal proposal would redevelop an unsightly building in a prominent location at the entrance to Teesside Shopping Park, creating 2,090 square metres of new shopping floorspace in an out of centre location. The Appellant has received expressions of interest from five retailers involved in the sale of furniture and electrical goods. It has suggested the imposition of a restrictive condition on any planning permission that would limit the operation of the store to a restrictive range of bulky durable goods. I have considered the proposal and its potential effects in this context.
 3. A thrust of Planning Policy Statement 6, (PPS6): *Planning for Town Centres* is the promotion of vital and viable town centres, through the focusing of
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new retail development in existing centres, in order to strengthen their retail offer and to assist regeneration. In consequence, new out of centre development requires careful consideration and special justification.

Need

4. Paragraph 3.10 of PPS6 says that the catchment area used to assess proposals should be realistic and well related to the size and function of the proposed development, taking account of competing centres.
5. The appeal site is located close to the boundary between Stockton-on-Tees and Middlesborough and like the adjacent shopping park, would inevitably attract a significant proportion of its expenditure from the latter area. The proposal would also be in competition with shopping centres and other retail facilities in Middlesborough, as well as ones within Stockton Borough.
6. The quantitative need analysis agreed by the Appellant and Council is based on The Stockton Retail Study (SRS), undertaken in 2004 by Nathaniel Lichfield and Partners, on behalf of the Council. It uses a catchment area based on Stockton Borough and apart from a reference to an inflow of comparison goods expenditure, anticipated to be largely related to bulky goods, excludes any reference to turnover attracted from Middlesborough or turnover at centres within that District. In the circumstances I do not consider this to be a robust methodology for establishing need in the appeal site's circumstances and in consequence the findings of the analysis should be cautiously interpreted and the weight given to them adjusted accordingly.
7. The SRS suggested that although there would be surplus expenditure capacity for comparison goods shopping in Stockton Borough in 2011, there would be no surplus capacity for out-of-centre comparison goods shopping. This is primarily a consequence of the volume of retail warehouse facilities already provided. The Appellant and the Council have updated the SRS information in the Statement of Common Ground, particularly concentrating on the expenditure forecast for bulky comparison goods. Allowing for committed floorspace and a reuse of currently vacant floorspace, this shows a surplus capacity in 2011 of £16.28 million. The appeal proposal's turnover is expected to be about £4.24 million.
8. The Council points out that the share of comparison goods expenditure taken by non-store retail sales, including Internet Shopping, is predicted by Experian¹ to rise from 7.1% in 2004 to 14.1% in 2011. Accounting for this, there would be an overall deficit in capacity of £1.76 million.
9. However, as the Appellant points out, the Council's analysis includes Non-store Retail Sales such as mail order, expenditure that has traditionally been excluded from retail assessments. It also makes no adjustment to the turnover figures at stores where E-tailing is a part of their total turnover. In consequence, in the context of the limited analysis undertaken, I consider that there could be some surplus capacity for bulky goods floorspace in Stockton Borough. However given the limitations of the catchment area used and the absence of any consideration of centres in Middlesborough, in the analysis, significant weight cannot be attached to this finding.

¹ Experian Retail Planner Briefing Note 5.1, November 2007

10. I therefore conclude that it has not been demonstrated that there is a clearly defined quantitative need for the proposed floorspace in the catchment area that it would serve. As a result the proposal is contrary to criterion i) of Policy S2 of the Stockton-on-Tees Local Plan, Alteration No.1, 2006 (LPA).
11. There was extensive provision for retail warehousing in Stockton. Much of this has floorspace that was not restrictive, as to the type of goods that can be sold. In consequence there has been a recent increase in the amount of such floorspace devoted to the sale of non-household goods and a reduction in the amount selling bulky goods. This suggests that there has been a decline in choice for shoppers seeking such goods and that there is now a qualitative need for additional floorspace. However, in the absence of an assessment based on the realistic catchment area of the proposed development, this suggested qualitative need should also be treated with caution.

Scale of development

12. The proposal would be a part of Teesside Shopping Park, which already contains 33 units within a floor area of 43,373 square metres, together with a significant number of leisure units. The scale and function of the appeal proposal would be appropriate in this context and it is in accordance with criterion iv) of LPA S2.

Sequential test

13. It is agreed that, being on the edge of Stockton Town Centre, the former Glyn Webb premises at Chandlers Wharf are in a sequentially preferable location. The Appellant points out that this site is affected by redevelopment proposals contained in the Stockton Town Centre Action Plan and by proposed highway improvements. However, the Action Plan is only at the consultation stage and carries little weight. The redevelopment of Chandlers Wharf is not anticipated until fifteen to twenty years hence and is dependent upon a successful road realignment and long term market demand. Although anticipated within five years, the realignment of Riverside Road is dependent upon the securing of funding and no evidence was presented to the Inquiry to confirm that there was a designed scheme that specifically affected the Chandlers Wharf site. In these circumstances little weight can be placed upon any future plans for this area.
14. I note that the former Glyn Webb premises have been unsuccessfully marketed for more than a year but given that the lease has little more than two years to run, this is not surprising. In my view, two years is a reasonable period of time for the site to become available, particularly as there is nothing to prevent a potential occupier negotiating with the owner, as well as the receiver, at this point in time. I note the Appellant's advice that the freehold owner is considering the redevelopment of the site but there is no written evidence to confirm this or that the freehold owner is unwilling to discuss the subdivision and letting of this unit.
15. Vacant and committed retail warehouse floorspace also exists at Portrack Lane and Teesside Shopping Park. I accept that some of this has planning permission for a wider range of goods than the appeal proposal and may eventually be let to businesses not retailing in bulky goods. However, this does not negate the fact that these premises are available now and could be let to

bulky goods operators. I agree that locationally these units are no more sequentially preferable than the appeal site but they already exist, whereas the appeal development does not. To disregard them would, in my view, run contrary to the spirit of PPS6, which is to resist out of centre retail proposals unless there is a clearly demonstrated justification for them. Additionally, there is no information as to whether or not there are sequentially preferable sites in Middlesbrough. These give added weight to my findings above.

16. I therefore conclude that a sequentially more preferable site could be available within a reasonable period of time and it has not been clearly demonstrated that there are no other sequentially preferable premises which are available, suitable and viable to accommodate the identified need the proposed development seeks to serve. As a result the proposal is contrary to criterion ii) of LPA Policy S2.

Impact

17. The Council considers that the proposal would have an adverse impact, as a result of trade diversion, from Stockton Town Centre and on the regeneration of Thornaby District Centre. It estimates the anticipated impact on comparison goods turnover, as a result of trade diversion, to be 2% and 6% respectively. Given that the analysis excludes any trade diversion from centres or stores outside of Stockton-on-Tees and the SRS, in discussing retail warehouse facilities at Teesside Park and Portrack Lane concluded that "they are likely to attract a high proportion (around 50%) of their turnover from beyond the study area", I consider these estimates to be an exaggeration.
18. Although Stockton has a comparatively high vacancy rate, the rate is declining. Rents have been stable in recent years and yields have fallen significantly, suggesting that the centre is increasingly attractive to investors. Pedestrian flows appeared good at the time of my site visits and the centre, which has a good environmental quality, has excellent accessibility by bus from a wide area. I therefore consider Stockton to be a vital and viable town centre.
19. Additionally, I was not referred to any elements of its spatial planning strategy that would be put at risk by the proposal. There are no units within the centre capable of accommodating the appeal proposal and the condition compliant floorspace within the centre, which would be in competition with it, is now only 17% of the total. I do not therefore consider the proposal would impact upon Stockton to an extent that harmed its vitality and viability.
20. Proposals for the redevelopment of Thornaby Centre are now at an advanced stage, with a substantial element of the former centre having already been demolished. Although construction work has still to commence, a tenant plan produced by the developers, in April 2007, shows that contracts had already been exchanged on all the proposed larger units. A copy of an updated publicity plan, submitted to the Inquiry, shows named retailers against all the proposed shops. Whilst this may not materialise into the final tenant mix, the evidence suggests to me that the redeveloped centre is on track to attract sufficient tenants to occupy the new floorspace. The identified mix also suggests that there would be little competition from a bulky goods warehouse. In such circumstances I do not consider the proposal would impact on

Thornaby to an extent that prejudiced its regeneration or impacted adversely on the vitality and viability of the redeveloped centre.

21. I therefore conclude that the proposal would not have an adverse impact upon the vitality and viability of Stockton-on-Tees Town Centre and Thornaby District Centre or any proposed strategy for a centre. It is therefore in accordance with criteria iii) of LPA Policy S2.

Accessibility

22. The appeal site is close to the intersection of the A19 and A66 and is very accessible by car from a wide area. There are footpaths and cycleways to nearby residential areas in Middlesbrough and Stockton that include footbridges across the principal roads. Whilst I accept that these are used by some people visiting the existing retail park, I am not persuaded that they would be a significant mode of travel for persons visiting a bulky goods store at the appeal site.
23. There is a day-time half hourly bus service between Stockton Town Centre and Teesside Shopping Park that passes close to the appeal site. Should planning permission be granted and the appeal development be occupied, the Appellant has offered, by way of a section 106 Unilateral Undertaking, to make financial contributions, up to a total sum of £100,000, towards the continued subsidisation of this service.
24. However, the service appears to be currently run largely for the benefit of employees. It does not provide any public transport access to areas within Middlesbrough and even within Stockton its penetration of residential areas is very limited. Most shoppers wishing to avail themselves of this facility would first have to access Stockton Town Centre or one of the limited intermediate stopping points. This reduces the service's attraction to potential passengers and its ability to encourage potential customers of the appeal proposal to change their travel mode.
25. In these circumstances although the proposed development would be nominally accessible by a choice of means of transport, it would be unlikely to significantly assist in reducing the need to travel by car or overall travel demand. Nevertheless, being a part of the much larger critical mass that is Teesside Shopping Park, even though the overall majority of trips are likely to be by private car, the proposal could result in a significant proportion of linked trips with other destinations in the immediate vicinity.
26. I conclude that the proposal would be accessible by a choice of means of transport and would meet the requirement of criterion v) to LPA Policy S2 but would be unlikely to assist in reducing the need to travel by car, as well as reducing overall travel demand, which is a requirement of criterion vi) to LPA Policy S2.

Other considerations

27. I agree that the concerns relating to contamination and flooding could be overcome by appropriate conditions. The existing vacant building is an unsightly structure at the gateway to Teesside Retail Park. Its redevelopment would undoubtedly be an environmental benefit. I also note that the proposal

would create between 30 and 40 permanent jobs in an area where the local unemployment rate is around 6%. Proposed new housing in the vicinity of the appeal site would also increase the opportunity for additional customers to walk or cycle to the site. Nevertheless, I do not consider these and the other attributes of the scheme to be sufficient to outweigh the harm to retail policy that I have identified.

Conclusion

28. Whilst the agreed retail assessment suggests that there is a quantitative and qualitative need for further bulky goods floorspace in Stockton-on Tees, this assessment excludes any analysis of likely expenditure flows to the proposal from Middlesbrough and the impact on existing centres or committed developments in that area. A clearly defined need for the proposal in the catchment area it seeks to serve has not therefore been established and I can therefore give little weight to the agreed findings on need.
29. It has not been clearly demonstrated that the Chandlers Wharf site is not an available sequentially preferable site and there are other existing premises available that are sequentially equal to the appeal site. Additionally, although the proposal is accessible by a choice of means of transport, it is not well served by means other than the private car and as a result it would be unlikely to assist in reducing the need to travel by car, as well as overall travel demand.
30. I therefore consider the proposal does not meet all the tests contained in LPA Policy S2 and the considerations outlined in PPS6. For the reasons given above and having regard to all other matters raised, I also conclude that the appeal should be dismissed.

Mel Middleton

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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FOR THE APPELLANT:

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 He called
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DOCUMENTS PRESENTED TO THE INQUIRY

- 1 List of persons present at the Inquiry
- 2 Rebuttal Proof of Evidence of Jonathan P Best
- 3 Extract from Stockton-on-Tees Local Development Framework,
Core Strategy, Issues and Options, March 2006, relating to
Employment Land Provision
- 4 Summary of existing bus routes serving Teesside Park , provided
by Savell Bird and Axon on behalf of the Appellant
- 5 Timetable for Bus Service 66/X66, provided by Savell Bird and
Axon on behalf of the Appellant
- 6 Map showing locations of Stockton Southern and Eastern
Gateways and Riverside, provided by the Council
- 7 Plan of Thornaby District Centre showing existing and proposed
tenants, provided by the Appellant
- 8 Schedule of suggested planning conditions supplied by the
Appellant
- 9 Assessment and revision of suggested planning conditions
supplied by the Appellant undertaken by the Council
- 10 Unilateral Undertaking under Section 106 of the Town and
Country Planning Act 1990, submitted by the Appellant

APPEAL PLANS

- A Ref: 8921 106 Rev B, Existing Site Plan
 - B Ref: 8921 110 Rev A, Proposed Site Plan
 - C Ref: 8921 111, Proposed North and East Elevations
 - D Ref: 8921 112, Proposed West and South Elevations
 - E Ref: 8921 113, Proposed Floor Plans
- OTHER PLAN
- F Plan showing appeal site location within Teesside Shopping Park