



## Appeal Decision

Site visit made on 1 April 2008

by **Malcolm Rivett BA (Hons) MSc MRTPI**

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

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**Decision date:**  
**21 May 2008**

**Appeal Ref: APP/H0738/A/08/2061202**

**Land at Cheltenham Road, Stockton on Tees, TS18 2SA**

- 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 The Mandale Group against the decision of Stockton on Tees Borough Council.
- The application Ref 07/1946/FUL, dated 26 June 2007, was refused by notice dated 3 December 2007.
- The development proposed is a cafeteria.

### Procedural matter

1. The planning application form identifies the applicant as England and Lyle, although I understand that this was an error corrected to The Mandale Group, as set out above, before the determination of the application.

### Decision

2. I dismiss the appeal.

### Main issue

3. The main issue of this appeal is whether or not the appeal site is an appropriate location for the proposal, having regard to sustainability and the protection of the vitality/viability of local shopping centres.

### Reasons

4. Policy S2 of Alteration Number 1 to the Stockton on Tees Local Plan indicates that extensions to existing major retail development outside district and local shopping centres will not be permitted unless there is a clearly defined need for the proposal in the catchment area it would serve; there are no sequentially preferable sites or premises; it would not have an adverse impact on the vitality/viability of any local shopping centre; and it would be accessible by a choice of means of transport and would assist in reducing the need to travel.
5. With reference to previous decisions, the appellant argues that policy S2 is not applicable to the appeal proposal because of its size and ancillary nature to the adjoining retail park. However, paragraph 3.29 of Planning Policy Statement 6: Planning for Town Centres (PPS6) (which post dates the Dowding Way decision referred to by the appellant) states that the sequential test is a relevant consideration for extensions to out of centre developments of 200 square metres or more and this is echoed by the supporting justification to policy S2.

The proposal is 330 square metres. I recognise that, in some instances, cafeterias can be ancillary to surrounding retail development. In my view to be considered ancillary the majority of the proposed cafeteria's turnover would be from customers whose primary reason for being at the trade park was to visit/work at the existing retail/trade units.

6. The appellant has provided no indication of the proportion of the proposal's turnover forecast to come from such customers. To my mind this would be likely to depend on the precise nature of the cafeteria and the food sold, about which I also have no details. Paragraph 3.30 of PPS6 states that conditions should be used to ensure that developments such as that proposed are genuinely ancillary to the main development. However, in the absence of details about the nature of the cafeteria and the food it would sell, it is not possible to construct a condition which would suitably restrict these matters to ensure the proposal would be genuinely ancillary to the retail park.
7. It is contended that the existence of mobile catering vehicles in the area demonstrates the demand for a café at the retail/trade park. In addition to the catering vehicles I note that there is a McDonald's restaurant, a coffee shop at the B&Q store and that several of the other stores offer complimentary coffee/juice to customers. I also understand that permission has been granted for a café as part of an office development a short distance to the north of the appeal site. In my opinion the retail/trade park is well served by existing refreshment outlets and I have no firm evidence to indicate that demand for food/drink, by workers at/visitors to the retail/trade units, is not met by the existing facilities.
8. The proposal would be clearly visible from outside the retail/trade park, including from passers-by on Portrack Lane. Given this, the size of the proposal, the number of existing refreshment outlets and the difficulty in conditioning operation of the proposal, it appears to me likely that a significant proportion of its trade would be from people who would not, otherwise, have visited the retail/trade park.
9. In conclusion, I have no evidence to indicate that the site is the most sequentially preferable location for the development or that it would accord with the other requirements of policy S2; nor am I convinced that the proposal would be genuinely ancillary to the adjoining retail/trade park. Therefore, having regard to national and local policy, I am not satisfied that the appeal site is an appropriate location for the proposal bearing in mind the principles of sustainability. I concur with the appellant that the Council has not convincingly demonstrated that the proposal would cause material harm to the vitality/viability of a specific local shopping centre. However, this does not undermine my concern about the proposal's location.
10. The Council has also referred to policy S14 of Alteration No 1 of the Local Plan which indicates that Class A3-A5 uses will only be permitted outside defined retail centres in exceptional circumstances. Whilst the proposal conflicts with this policy its supporting justification indicates that the protection of amenity is its primary objective. I concur with the Council that the proposal is unlikely to cause such problems and thus its conflict with this policy has carried little weight in my decision.

11. For the above reasons I conclude that the appeal should be dismissed.

*Malcolm Rivett*

INSPECTOR