



## Appeal Decision

Site visit made on 1 September 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:  
4 September 2008

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### Appeal Ref: APP/H0738/A/08/2075623

#### Land to north of Sopwith Close, Preston Industrial Estate, Stockton-on-Tees, TS18 3TT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Darren Peckitt against the decision of Stockton-on-Tees Borough Council.
- The application Ref 07/2463/OUT, dated 16 August 2007, was refused by notice dated 14 December 2007.
- The development proposed is to create a 14900sq ft steel portal building with car parking for 62-70 cars for use as a family entertainment centre.

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#### Procedural matters

1. The application was made in outline with all detailed matters reserved for future consideration. I have determined the appeal on this basis. During the planning application stage the appellant submitted an amended layout plan of the proposal although the Council did not consider this in reaching its decision. However, given that the application is in outline with its layout reserved for future consideration, and as the Council has seen and had the opportunity to comment on the revised layout, I have taken account of the amended plan in reaching my decision.
2. Since the submission of the appeal the Council has withdrawn its third reason for refusal concerning car parking provision.

#### Decision

3. I dismiss the appeal.

#### Main issues

4. The main issues of the appeal are:
  - (a) whether the site is an appropriate location for the proposal having regard to:
    - the sequential test which seeks to locate most leisure/entertainment facilities in/adjacent to town and local centres;
    - the objective of ensuring that such facilities are accessible by means other than the private car;
    - its effect on the vitality and viability of existing town and local centres.
  - (b) the effect of the proposal on the character and appearance of the area.

### Reasons

5. Policy S2 of the adopted Alteration No 1 to the Stockton-on-Tees Local Plan indicates that key town centre uses will not be permitted outside Stockton town centre and district and local centres unless it can be demonstrated that (amongst other things) there are no other sequentially preferable sites within, or on the edge of, the town and district centres; the proposal would have no adverse impact on the vitality or viability of any centre; it would be accessible by a choice of means of transport including public transport, cycling and walking and would assist in reducing the need to travel by car as well as overall travel demand. Unlike for retail development Policy S2 does not set a minimum applicable size limit for leisure uses and, therefore, I do not accept the appellants contention that the policy does not apply to the appeal proposal. The policy largely echoes the guidance in Planning Policy Statement 6: Planning for Town Centres (PPS6).
6. In justifying the proposal's out of centre location the appellants statement of case argues that trips to the facility would be unlikely to be combined with other activities such as shopping. However this is at odds with the evidence submitted with the planning application which specifically states that a "drop and shop" scheme would be operated allowing parents time to go shopping whilst their children were playing. To my mind, therefore, the proposal would be eminently suitable for a location within, or on the edge of, a shopping centre and I do not consider the site, some 2km from Stockton town centre, to be in such a location.
7. The Council argues that, in considering sequentially preferable sites for the proposal, the appellant has not been sufficiently flexible with regard to the format/size of the building required. However, I accept the appellants contention that the nature of the use restricts the proposal to a relatively large building, primarily on a single floor, with a high ceiling height. The appellant has shown that, over a 4 year period, a large number of existing premises were considered and discounted as unsuitable before the appeal site was selected. Whilst this evidence is not utterly conclusive I note that the Council has not referred to any existing premises it believes would be more appropriate for the proposal.
8. However, there is no evidence that alternative sites for a new building (as is proposed on the appeal site), in or adjacent to existing centres, have been considered by the appellant. He states that, despite requests, the Council has been unable to identify any suitable locations for the scheme. However, PPS6 is clear that it is the developer's responsibility to demonstrate that there are no more central sites for the development. I have seen no evidence to substantiate the assertion that the size of building required is unlikely to be able to be accommodated in a centre. Moreover, whilst I accept the proposal would be unlikely to be appropriate in a primary shopping frontage, I am not persuaded that it would inevitably conflict with town centre policies if sited within/adjacent to an existing centre. Since there is no evidence that alternative sites for a new building have been considered I cannot be assured that there are no sequentially preferable locations for the proposal.
9. It is argued that the nature of the proposed use is such that children are likely to be transported by car, although there is nothing to support this assertion

- and I can see no reason why it should necessarily be so, if it were conveniently located in relation to alternative modes of travel. The appellant's statement of case indicates that the proposal would constitute the relocation of his existing facility in Newton Aycliffe, although I have inferred from the supporting information submitted with the planning application that it would be an additional facility. However, based on the analysis of need it appears that the catchment area of the proposal is anticipated to be at least the Stockton Borough area and would be likely to be substantially wider if the proposal were to be a replacement for the Newton Aycliffe facility.
10. The nearest bus stops to the site are on Bowesfield Lane, approximately 5 minutes walk away, and Yarm Road which is around a 10 minute walk. The submitted information indicates that from these stops there are frequent Monday – Saturday daytime bus services to Stockton town centre, Yarm, Ingleby Barwick and parts of Middlesbrough although the evening and Sunday services are much more restricted. However, it appears that it would not be possible to access the facility by public transport from most parts of Stockton without a change. Given this, and the 5-10 minute walk required from/to the nearest bus stop, I consider that the proposal would not be well served by public transport, having regard to its likely catchment area. Consequently, it would not assist in reducing the need to travel by car as required by policy S2.
11. Other than emphasising that it is not a retail use, the appellant provides little evidence to substantiate his claim that the proposal would not harm the vitality or viability of existing centres, although equally there is little in the Council's evidence to contradict this assertion. I appreciate that the Council considers that diversifying the range of uses in the town centres would help support their vitality and viability, although to my mind that is one of the objectives behind the policy of directing leisure facilities to town centre locations, which I have addressed above. That the development might benefit a shopping centre if it were located within or close to it does not mean that demonstrable harm to the centre would be caused if the development were to be located elsewhere. Consequently, whilst I acknowledge that PPS6 places the onus on the developer to show there would be no harm to existing centres, I consider that there is insufficient evidence that the proposal would cause any demonstrable harm to the vitality or viability of any nearby shopping centres to justify refusing permission for the proposal for this reason. However, this does not undermine my concerns about the proposal's location with regard to the sequential test and public transport accessibility and I conclude that in this regard the proposal conflicts with the requirements of policy S2 and the guidance in PPS6.
12. Turning to the issue of character and appearance I understand that since the refusal of the application the shelter belt landscaping to the north of the site has been thinned such that the proposal could be accommodated on the site without the need for the removal of any further trees. It appears to me that the remaining trees would provide substantially more screening of/shelter for the site from the A66 than exists, for substantial lengths, in a number of other locations along the section of the A66 between Yarm Road and Bowesfield Lane. Furthermore, I envisage that reinforcement of the remaining width of shelter belt, which could be required by condition, would be effective in further obscuring the view of the land from the road. I conclude therefore that,

- suitably conditioned, the proposal would cause no significant harm to the character or appearance of the area. In accordance with policy GP1 of the Local Plan I have assessed the proposal having regard to its relationship with the surrounding area, the contribution of existing landscape features and the need for a high standard of landscaping and I have found that, subject to appropriate conditions, no significant harm would result.
13. Although not a reason for refusal the Council has also raised concern about the lack of a footway on the northern part of Sopwith Close. Whilst I consider that a footway would be necessary to ensure safe access to the site by pedestrians, I am not persuaded that there is no realistic prospect of the provision of this, which could be secured by a Grampian style condition.
14. I note that the proposal would meet an identified need for play facilities, that it would provide employment opportunities and that it would improve the appearance of the unused site. However, I consider that this does not outweigh the harm which would result from its inappropriate location. I appreciate that there are existing leisure facilities nearby, although I am not aware that they have been granted permission since the adoption of policy S2 and thus, their existence, is not good reason to allow the proposal. Similarly, that the vast majority of comparable facilities across the country are in industrial estates does not justify the proposal, given the clear guidance in the relatively recently published PPS6 that existing centres should be the focus for such uses.
15. For the above reasons I conclude that the appeal should be dismissed.

*Malcolm Rivett*

INSPECTOR