



Appeal Decision

Site visit made on 21 July 2009

by **Anthony J Wilson BA MA DipLA 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:
10 August 2009

Appeal Ref: APP/H0738/A/09/2103551

Land at Cheltenham Road, Portrack, 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 Greggs plc against the decision of Stockton-on-Tees Borough Council.
- The application Ref: 09/0317/FUL, dated 11 February 2009, was refused by notice dated 9 April 2009.
- The development proposed is described as the erection of a Greggs retail unit.

Decision

1. I allow the appeal, and grant planning permission for the erection of a Greggs retail unit on land at Cheltenham Road, Portrack, Stockton-on-Tees in accordance with the terms of the application, Ref: 09/0317/FUL, dated 11 February 2009, and the plans submitted with it, subject to the schedule of conditions set out at the end of the decision.

Main issue

2. I consider the main issue is the effect of the proposed development on the vitality and viability of existing local shopping centres.

Reasons

3. The appeal relates to a small site located within an extensive area of commercial land uses on the Portrack Trading Estate between Stockton and Middlesbrough.
 4. Development plan policy on retailing in Stockton is set out in the *Stockton-on-Tees Local Plan (1997)*. Saved Policy S1 lists the local shopping centres to which new retail development will normally be directed and Policy S15 sets out the criteria to be used in assessing the acceptability of small scale retail uses outside those centres. No issues have been raised about the size of the proposed unit and I consider that it would be appropriate to regard it as being small scale, for the purposes of both Policy S15 and *Planning Policy Statement 6: Planning for Town Centres (PPS6)*, which postdates the local plan.
 5. Having regard to paragraph 3.30 of PPS6, and taking into account the size of the Portrack Trading Estate, I also consider that it is appropriate for this small retail unit to be regarded as ancillary to the main commercial trading uses of the business locality within which it is located. In such circumstances, the proposal would not normally be required to meet the tests of national shopping policy, either in relation to need or in respect of any effect on the vitality and viability of local shopping centres.
-

6. Looking at the terms of the development plan, sub paragraph ii) of S15 requires the facility to be within walking distance of *residential* areas (my emphasis). However, the proposed unit would provide an equally important service to those members of the local community working in, or visiting, the surrounding commercial areas. The justification for Policy S15 highlights the problems for local communities arising from the lack of convenient access to existing local centres, indicating that small scale provision of local shops may be required to serve local demand, thereby contributing towards the objective of sustainable development by reducing the need to travel. Para 66 records that employment developments should provide appropriate shopping provision, subject to need and no adverse impact on vitality and viability of nearby centres. I consider, therefore, that the provision of a small A1 unit in such a location would therefore be acceptable in principle within the provisions of the local plan.

Vitality and viability

7. I have noted the Council's argument that the prominence of the unit on the estate, and its high profile fast food operation, would attract customers from a much wider area than its immediate surroundings; but I do not share this point of view. The proposed building would be on a very small site at the heart of the trade park and, when all of the available sites are fully developed, it would not be readily apparent from beyond the boundaries of the estate. I agree with the appellant, therefore, that a large proportion of its customers would be drawn from persons already using the surrounding trade and employment premises, who do not currently have convenient access to A1 food retail uses, or to the nearest local shopping centres.
8. Moreover, I consider that the Council's concerns about the likely impact of the shop on other local centres, particularly on Stockton town centre, are overstated. To my mind, there would be little realistic prospect of local customers, who may be looking to purchase bakery products, travelling the 2km to the town centre; or making linked trips to other retail premises during a specific journey for those products. The evidence submitted by the appellant, indicating the retail composition of the nearest neighbourhood centres, also suggests that these shopping areas would remain unaffected by the proposed development. In my opinion, therefore, the proposed bakery shop would be sufficiently distant and separate from the nearest established retail centres to avoid any harmful impact upon their vitality and viability.

Need

9. Looking at the question of need, the Council argues that the purchasing requirements of local customers are currently being met by the existing facilities, with particular reference to the McDonalds restaurant and several mobile food retailing trailers. However, I consider that the restaurant is a very different type of food retail facility to that proposed in the appeal and that it would cater for a different market.
10. I have had regard to the conclusions of my colleague on a recent appeal on an adjacent site (Ref: App/H0738/A/08/2061202), particularly his reference to the mobile catering trailers in his findings that the existing retail/trade park is well served by existing refreshment outlets. However, the previous appeal, and the

Inspector's comparisons and conclusions, were in relation to the acceptability of an A3 restaurant facility of 330m² floor space. The proposal before me is for a much smaller, A1 retail unit, selling items for consumption off the premises. I also consider that, in addition to their temporary role in providing food and drink to local customers, the transient presence of mobile food retailing trailers could equally be regarded as an indicator of the need for permanent local provision. I am not persuaded, therefore, that significant weight can be attached to the presence of these mobile food outlets, on way or the other, in any assessment of local need or existing provision. What is clear is that there is no comparable, permanent, A1, bakery-retailing premises in the immediate locality. The nearest commercial premises selling similar goods is the Asda supermarket, which is over 750m away, across a dual carriageway, and the walking route to it is decidedly unfriendly to pedestrians.

11. I am satisfied, therefore, that there is a local need for the proposed facility in terms of the requirements set out in Policy S15 of the local plan.

Conclusion

12. I conclude that the proposal would leave the vitality and viability of local retail centres unharmed and, as a consequence, it would meet the objectives of local plan Policy S15, and would comply with national planning policy.

Conditions

13. In the event of planning permission being granted, the Council has suggested the imposition of 7 conditions (Council's numbering in brackets) and I have examined these within the terms of *Circular 11/95: The Use of Conditions in Planning Permissions*.
14. I see no necessity to define the planning permission by a condition (1) requiring accordance with the approved plans, which are unaltered from their original submission as part of the application. However, in the absence of full details of the proposed materials to be used (2), the boundary means of enclosure (3), the drainage details (4) and refuse storage and management (5), I consider that the prior approval of these matters is necessary in the interests of securing a satisfactory appearance for the development and protecting the local water environment. As with all of the conditions, I have made minor alterations to the suggested wording to better relate to the development for which permission is being sought.
15. Both parties have suggested conditions restricting the use of the proposed building within the Use Class. In particular, the Council seeks to confine the use to the sale of bakery produce only (6), but I consider that this would be unduly and unreasonably restrictive. Moreover, I do not consider that this type of condition would be necessary to secure the objectives set out in paragraph 3.31 of PPS6, which offers guidance on using conditions effectively in the interests of protecting the character of the local trading environment. I see no reason, therefore, to restrict the goods sold within Class A1 in such a small unit.
16. The Council suggest the opening times of the shop should be restricted to 08.00hrs to 18.00hrs Monday to Sunday (7), whilst the appellant proposes 0700hrs to 18.00hrs Monday to Saturday. With no implications for residential

amenity, and with a potential customer demand early in the working day of the locality, I see no reason why the opening time should not reflect the appellant's preference. As the Council's condition accepts trading seven days a week, I see reason to restrict the days of operation.

17. Finally, I shall include the standard time condition required by the legislation.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Notwithstanding any description of the materials in the application, precise details of the materials to be used in the construction of the external walls and roofs of the building shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.
- 3) All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be approved by the Local Planning Authority before the development commences. Such means of enclosure as approved shall be erected before the development is first occupied.
- 4) No development approved by this permission shall be occupied until a scheme for the provision and implementation of surface water and foul drainage works has been approved by the Local Planning Authority and implemented in accordance with these approved details.
- 5) Notwithstanding the details submitted as part of the application, and prior to the occupation of the development, details of a scheme for refuse and recycling facilities, and their on-going management, shall be submitted to and approved in writing by the Local Planning Authority and be implemented in accordance with these approved details.
- 6) The unit hereby approved shall not be open for business outside the hours of 07.00hrs to 18.00hrs, unless otherwise agreed in writing by the Local Planning Authority.

Anthony J Wilson

INSPECTOR