



Appeal Decision

Site visit made on 31 March 2003

by **Anthony J Wilson** BA(Hons) MA DipLA MRTPI

an Inspector appointed by the First Secretary of State

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Date

- 7 APR 2004

Appeal Ref: APP/H0738/A/03/1135806
36 Station Road, Billingham, TS23 1AB

- 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 Mr Lahig against the decision of Stockton-on-Tees Borough Council.
- The application (Ref: 03/2136/P), dated 11 August 2003, was refused by notice dated 13 October 2003.
- The development proposed is the change of use of a retail unit to a café/bistro and takeaway and the installation of an extraction duct to the rear.

Summary of Decision: The appeal is dismissed.

Main Issue

1. I consider that the main issue in this case is the effect of the proposed development on the vitality and viability of the local shopping centre, with particular regard to the effect of any concentration of uses, and any impact upon the achievement of sustainable development objectives.

Planning Policy

2. The development plan for the area includes the Stockton on Tees Local Plan (1997). Policy GP 1 records that proposals for development will be assessed in relation to the Cleveland Structure Plan and a series of other criteria. These include the external appearance of the development and its relationship with the surrounding area.
3. I have also been referred to Policy SUS1 of the Tees Valley Structure Plan Deposit Draft (2003), which requires new development proposals to make a positive contribution towards achieving sustainable development. The policy goes on to indicate that the impact of development on environmental quality, social well being and economic prosperity will be central considerations. The draft structure plan is not yet adopted, which would normally prevent full weight being attached to its provisions. However, the important objective of promoting sustainable development is one that is central to current, national planning policy and I consider the general principles of sustainability underpinning Policy SUS1 to be relevant considerations to which I shall attach considerable weight.
4. I have also had regard for the national advice on retail development, changes of use and concentration of uses within retail centres, as expressed in Planning Policy Guidance Note (PPG) No 6: Town Centres and Retail Development.

Reasons

5. The appeal site lies within a small district shopping centre, located on the southern side of Billingham. The shopping area comprises a number of distinct shopping parades, in

separate groups of buildings, situated to either side of Station Road. The appeal building stands centrally to the commercial frontage of the parade on the eastern side of the street. To the rear of the premises, a small service yard and car park extends to the east, surrounded by the rear gardens of a number of residential properties. Whilst the nearest dwellings are between approximately 50m and 60m away, I noted that there are residential flats in the upper floors of some of the neighbouring units. At the time of my site visit, the property was no longer vacant and was occupied as an estate agent's office.

6. Throughout the country, small district shopping areas such as this are presently enduring difficult times, faced, as they are, with serious competition from larger centres and out of town retail facilities. These neighbourhood centres provide goods and services to their local communities, without the need to travel significant distances, representing a much more convenient and sustainable form of development. It is for this reason that the future viability of such centres needs to be protected. I consider that the present health and vitality of the Station Road shopping centre is generally good, with a relatively wide range of goods and services available, given the size of the centre. The number of vacant units is a matter of concern, reflecting the fact that certain uses might be at the fringes of their economic viability. However, in general, the balance of shops, services and other facilities is encouragingly good. It is this balance of uses, and their ability to continue to attract customers, that will determine the future success of the centre as a neighbourhood shopping area and reduce the need for local residents to travel to meet their day to day needs.
7. In its reason for refusal, the Council indicates that the proposal would change the character and function of the district shopping area from providing convenience goods to A3 uses, reducing customer choice and increasing reliance on the need to travel. I am also concerned that the balance of uses would be upset by the proposed development. My own observations are confirmed by the appellant's figures, revealing that the centre already has a significant number of food and drink uses, with some 9 premises in A3 use out of a total of 52 units. In the parade where the appeal site is located, I noted that there are 2 units out of 12 in A3 use. Consequently, I consider that the point may well have been reached where there is currently a significant concentration of such single uses within this relatively small district centre, already threatening to upset the balance of shopping provision and to undermine its fundamental purpose. Moreover, by adding to the cumulative number of such uses in the locality, the proposal would serve to reduce customer choice in the shopping centre that would, over time, gradually lead to a significant number of people making additional vehicle journeys in order to meet their basic, daily needs. I consider that, in turn, this would have a harmful impact on the vitality and viability of the shopping centre, by undermining its long-term future.
8. The effect of the proposal on the balance of uses within the shopping parade containing the appeal site is also a matter of concern. Currently, within the range of goods and services on offer, there are 2 existing, hot food takeaways, 2 other, non-A1 uses, together with 5 of the remaining, 8, A1 units offering goods for sale. In my opinion, the replacement of one of those shop units with an A3 use would lead to a disproportionate representation of food and drink uses in the small parade. In my opinion, this would have a detrimental effect on the vitality and viability of this shopping parade and the contribution that it makes to the shopping centre as a whole.
9. In reaching my findings, I have noted the appellant's view that the proposal would add a café/bistro to the daytime range of uses in the centre. However, there would be a takeaway

element to the business. I also note from the hours of operation being suggested by the appellant that, whilst the premises would be open from early in the day, it would continue to operate late into the evening in the manner of other hot food outlets in the locality. Having regard to the presumption against restricting uses that would otherwise be permitted within the Use Class, set out in Circular 11/95: The Use of Conditions in Planning Permissions, I am satisfied that it would not be appropriate to control the precise nature of the A3 operation by condition.

10. I conclude, therefore, that the proposed development would be harmful to the vitality and viability of the Station Road district shopping centre and at variance with the objectives for sustainable development expressed in local development plan policy.

Other Matters

11. I have had regard to the appellant's comments relating to the percentage of non-retail uses and the thresholds used in the guidelines issued by neighbouring planning authorities to assess the effect of non-A1 uses on the vitality and viability of shopping centres. However, in my view, the key consideration in this case relates more to the effect of the concentration of one particular type of non-A1 use on this particular centre and I have concluded that the proposal would have a harmful impact in this respect.
12. I have taken into account the fact that, since the appeal was lodged, the change of use of the building to an A2 estate agent's office has presently removed the appeal property from A1 retailing use. However, I note that A2 uses are generally under-represented in the shopping centre, and I consider that the estate agency has brought a new facility to the area, enabling customers in the locality to access another service without the need to travel. Consequently, I consider that the new use has added to the services available within the shopping area, helping to broaden its appeal. I also consider that this use, in this particular location, represents a sustainable form of development consistent with local development plan policy.

Conclusion

13. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed.

Formal Decision

14. I dismiss the appeal.

Information

15. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.



INSPECTOR