



Appeal Decision

Site visit made on 8 January 2008

**by Graham E Snowden BA BPhil Dip
Mgmt MRTPI**

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

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**Decision date:
29 January 2008**

Appeal Ref: APP/H0738/A/07/2057219

73 Station Road, Billingham, Cleveland, TS23 1AE

- 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 Gillian Dunn against the decision of Stockton-on-Tees Borough Council.
- The application Ref 07/0924/FUL, dated 22 March 2007, was refused by notice dated 7 June 2007.
- The development proposed is a change of use to coffee shop and cafe.

Decision

1. I allow the appeal, and grant planning permission for a change of use to coffee shop and cafe at 73 Station Road, Billingham, Cleveland TS23 1AE in accordance with the terms of the application, Ref: 07/0924/FUL, dated 22 March 2007, and the plans submitted therewith, subject to the following conditions:
 - (i) Details of a ventilation and fume extraction system, including a full technical specification, specifying the position of ventilation, fume or flue outlet points and the type of filtration or other fume treatment, to be installed and used in the premises, shall be submitted in writing to the local planning authority within two months of the date of this decision and shall thereafter be installed, in accordance with the approved specifications, within three months of the date of the details being approved.
 - (ii) No live entertainment shall take place or music amplification equipment used on the premises until the premises have been insulated in accordance with a scheme, which has first been submitted to, and agreed in writing by, the local planning authority.
 - (iii) The use hereby permitted shall not be open to customers outside the hours of 0700 to 2200.

Main Issue

2. The main issue is the effect of the proposed change of use on the character, vitality and viability of Billingham Green, as a local retailing centre.
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Reasons

3. Billingham Green is a loose-knit local shopping centre, spread out along either side of Station Road. The appeal property lies within a terrace of 12 units occupying a location on the west side at the northern edge of the centre. Of these units, 7 are in retail (i.e. Class A1) use, with two take-away (Class A5) units. The proposed café use at the appeal property has been implemented.
4. Policy S10, saved from the Stockton-on-Tees Local Plan, states that changes of use from retailing will be resisted in defined local centres, unless it can be demonstrated that, among other things, reasonable efforts have been made to market the premises for retail use and the character, vitality and viability of the centre as a retail centre will not be adversely affected.
5. The appellant has claimed that the property was vacant for 5 months before the café use commenced. No details have been provided to confirm the situation or to indicate what efforts were made to market the property for retail use during that period, but I have no reason to doubt the appellant's claim. Photographs have also been provided showing vacant retail units. The location of these is not specified, but the majority appear to be within Billingham town centre rather than this local centre. I noted only one vacant double unit in the local centre and I assume that this is the unit referred to in the appellant's grounds of appeal, which she claims has been vacant for over a year. Again, there is no independent information submitted to substantiate this, but there is no evidence before me to the contrary. The appellant also claims that the retail business, which formerly occupied the ground floor, has not been lost to the centre, but has moved into the first floor of the unit. However, I have not been provided with details and I was unable to confirm on site that this was in fact the case.
6. Whilst the information before me to show that the unit would not prove attractive to a retail user, is not, therefore, totally convincing, the appellant's claims are not disputed by the Council. I do not, therefore, regard this as a decisive objection to the proposal.
7. I noted only one other café (Class A3) within the centre and I am prepared to accept that the appeal proposal represents an attractive addition to the range of local facilities on offer within the centre and has the capacity to extend the range of consumer choice for a local customer base. I note that the outlet only trades until 2 p.m. daily, and, therefore, presents an inactive frontage in the afternoon. However, I also noted that other units (such as the bakery at 59 Station Road and the hot food takeaway at no. 71) in the same terrace have similar opening hours. The appeal unit occupies a peripheral location in the centre and the uses at the northern end of the terrace, in which it is located, are dominated by, either non-retail uses, or those (such as the home decorating centre at nos. 67-69), which cater for a wider than local customer base. I accept, therefore, that the café use would not break-up an existing run of active and vibrant local shopping frontage.
8. For the above reasons, the potential loss of a retail user at this location would not, I feel, endanger the overall vitality, viability or retail character of the local centre, which, I noted, provides a wide range of local shopping and other

opportunities. Furthermore, the proposal would not, in my view, in itself, diminish the attractions of the centre as a retail magnet for local people or encourage car-based trips further afield to meet local needs, which would lead to unsustainable local travel patterns. On balance, therefore, I consider that there is no evidence to show that the character, vitality and viability of Billingham Green, as a local retailing centre, would be threatened.

9. I have had regard to the history of the opening of the premises and the grievances of the appellant in relation to the process, as exercised by the local authority. These, however, are not primarily planning matters, and there are other avenues, through which such complaints can be pursued. However, the potential personal hardship of the appellant, which might ensue, were the appeal to be dismissed, reinforces my view that planning permission, in this instance, should be granted.
10. The Council has suggested the imposition of conditions requiring approval of ventilation/fume extraction equipment, restrictions on noise generating activities and controlling opening hours. I consider that these are reasonable and necessary and will impose conditions, suitably adjusted, to give effect to the Council's suggestions. In particular, I note that the early morning opening hour suggested is later than that under which the premises are currently operating. Although, there are residential properties opposite, they are separated from the appeal premises by a busy through-route and I note that no objections in respect of the current operating hours have been received. I do not consider that either a 0700 hours morning opening or opening in the earlier evening (should the operator subsequently choose to do so) is likely to give rise to undue levels of disturbance. I have amended the suggested condition to reflect this.
11. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

G E Snowdon

INSPECTOR