



Appeal Decision

Site visit made on 29 September 2009

by Louise Crosby MA MRTPI

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

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Decision date:
26 October 2009

Appeal Ref: APP/H0738/A/09/2108093
Units 8 & 9, Portrack Trade Park, Cheltenham Road, Stockton-on-Tees,
TS18 2AD

- 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 Mandale Commercial Limited against the decision of Stockton-on-Tees Borough Council.
- The application Ref: 09/0399/FUL, dated 20 February 2009, was refused by notice dated 16 June 2009.
- The development proposed is change of use to children's play centre (Use Class D2).

Decision

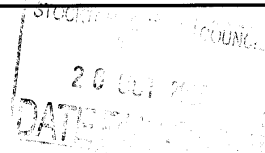
1. I dismiss the appeal.

Main issues

2. The main issues are:
 - i) whether there is a sequentially preferable site or building to accommodate the use;
 - ii) the impact of the proposal on the availability of industrial land within the Borough; and
 - iii) whether the proposal would be accessible by a choice of means of transport, including public transport, walking and cycling, as well as by car.

Reasons

3. The appeal site is occupied by a steel portal framed building, with a floor area of approximately 2000 sq m. It currently has planning permission for B2 (General Industrial) and B8 (Storage and Distribution) uses. The appeal site forms part of the Portrack Trade Park which comprises 10 No trade park units. The wider area consists of an established out of town leisure and retail park, which I saw contains predominantly retail uses.
4. Policy S1 of the adopted Stockton-on-Tees Local Plan Alteration Number 1 (March 2006) (LP) sets out a local retail hierarchy within the Stockton-on-Tees Borough Council area. LP Policy S2 reflects the guidance set out in Planning Policy Statement 6: *Planning for Town Centres* (PPS6), in relation to dealing with proposals such as this, outside town centre locations. This requires firstly an assessment of the need for development. I note that the Council's officer report says that they consider that this is more a case of a desire on the part of



the appellant for such a facility, than a need. However, I notice that the lack of need does not appear as a reason for refusal. It seems to me, that proposals, such as this, will be driven more by a desire, based on an identified gap in the market. As such, I consider that the proposal would meet the 'need test' set out in LP Policy S2 and PPS6.

5. Turning to assess the suitability of the sequentially preferable sites before me, I note that the Council accepted that some alternative sites, which were put forward as part of the planning application, were not suitable. Therefore I will focus on those sites which are in dispute between the parties and thus set out in the appellant's statement. I accept that a number of these are patently unsuitable, including the former Glynn Webb site which is likely to have new road constructed through it. Also, the former cinema building would be too restrictive, since it is a listed building and according to the photograph in the appellant's statement, it has fixed seating in place. While the J T Doves site is owned by the appellant, it seems that it is not in a sequentially preferable location. Norwood has planning permission for residential development and therefore it is likely to be unsuitable and unviable and similarly St Mark's basin, which has planning permission for offices. Moreover, I agree that the former MFI site, because of its location in relation to the town centre, and the physical barriers to walking to the site could not genuinely be considered to be an edge of centre site and therefore not sequentially preferable.
6. However, the former Charlie Browns site and a site to the east of it, have an outline planning permission for various uses, including leisure. The Council say that a use such as this would only form a small part of the wider redevelopment and that it could act as a catalyst to the larger development schemes commencing on site, particularly in light of the current economic downturn and this seems logical to me. I realise that it would be more costly to erect a new building and that the land values on these sites would reflect the extant planning permissions, but I am not convinced, on the basis of the limited evidence before me, that locating the proposal on one of these sites would be unviable. Although the North Shore mixed use site does not have planning permission for a leisure use, my findings in respect the two previous sites would also apply here. Regarding the former Lord Tavern site and the Tristar site at Thornaby, again, there is a lack of evidence before me to clearly demonstrate that the redevelopment of these sites would be unviable.
7. Overall, there seems to me to be a lack of clear evidence to demonstrate why these latter sites are not practicable alternatives in terms of availability, suitability and viability, as required by PPS6. I am not convinced that a site, closer to the town centre, could not be found for this proposal and therefore I find conflict with LP Policy S2 and the guidance in PPS6. I also find conflict with Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) and Planning Policy Guidance Note 13: *Transport* (PPG13) in so far as they seek to promote and address the accessibility of services such as this. This harm that I have identified is sufficient for the appeal to fail.
8. Regarding the impact of the proposal on the availability of industrial land within the district, Stockton-on-Tees Local Plan (1997) Policy IN10 allows for the use of existing or proposed industrial land or buildings for other purposes, provided that it can be demonstrated that suitable other sites and buildings are available both in the short-term, and to satisfy long term requirements, over the plan

period, in the locality and the wider area; or the existing use produces unacceptable traffic or environmental problems; or the premises are no longer capable of providing acceptable standards of accommodation. Given that the building on the appeal site is new, the latter two criteria would not be met.

9. In terms of the first criteria, I understand that the Council's 2008 Employment Land Review (ELR) and the Regional Spatial Strategy identify a surplus of employment land in the Borough, but that the appeal site falls within the 'Portrack Interchange' site which is identified within the ELR for retention, without further assessment, to meet demand projections in stage 2 of the review. I did note when I visited the appeal site that there is a significant amount of land nearby, awaiting development, and a number of large vacant units.
10. In addition, I note that the proposal would create approximately 40 part-time jobs and therefore according to the appellant, it is likely that this proposal would create more jobs than if the units were occupied by a trade business. I am also mindful that the unit has been marketed for two years, with little interest from trade park businesses. Therefore I consider that the change of use of these units, to a children's play centre, would not undermine the objectives of the ELR and the availability of industrial land within the area. As such, the proposal would accord with Stockton-on-Tees Local Plan (1997) Policy IN10 and emerging Core Strategy Policy CS4 which seeks to protect employment sites which are viable and attractive, from pressure from redevelopment to alternative uses.
11. Turning to the issue of accessibility, the appeal site is located approximately 2km away from the defined Stockton town centre. While I note that there are some houses within about a 15 minute walk of the appeal site, I saw that the area is very car dominated. Although there are good footpath links, the amount of traffic would make driving seem more desirable, particularly when accompanied by young children. For the same reason I consider that cycling is unlikely to be popular in this area. I note that in a recent appeal decision (Ref: APP/H0738/C/09/2097291), on a nearby site, the Inspector concluded that linked trips in this area would be likely. However, that case related to a retail use. Given that the predominant use in the surrounding area is retail, then I would agree, but the proposal before me is for a leisure use, aimed at a very specific market, with the likely amount of linked trips being considerably less.
12. From the information in the submitted Transport Statement, I see that there are two bus stops within about a 10 minute walk of the appeal site. Nevertheless, from the submitted bus timetables, it appears that the bus services to this area are generally infrequent, particularly on Sundays. Moreover, it appears that, to reach the site from some areas, customers would need to change buses, in the town centre. While buses may be used by some people to access the appeal site, the reality is that this mode of transport would be inconvenient and given that parents would be accompanied by at least one child, it is much more likely that they would choose to drive.
13. While this may also be the case if the proposal were located in or near a town centre, this may be discouraged in some locations by the lack of adjacent car parking. More importantly, customers would be able to make a conscious decision about their mode of transport, because the choices open to them

would be much wider, and the alternatives more convenient in a town centre location. It is also likely that footpath links to the town centre would be better from residential areas and public transport stops.

14. As a result of the limited, realistic choices at the appeal site, I find that the proposal would conflict with LP Policy GP1 in so far as it seeks to make development as accessible as possible to everyone and LP Policy S2 in so far as it seeks to ensure that sites are accessible by a choice of means of transport. In light of my findings on the issue of sequentially preferable sites, I consider that sites closer to the town centre should be explored first, before less sustainable sites, such as this, are accepted. In this regard the proposal would also conflict with the objectives of national planning policy contained in PPS1, PPS6 and PPG13.
15. I have a number of appeal decisions before me in relation to different sites. These are not wholly consistent in their conclusions, because each case has been dealt with on its own individual merits. Likewise, I have dealt with this case, based on its own set of circumstances and the evidence before me. Although I find that the proposal would not undermine the availability of industrial land within the Borough, this is significantly outweighed by the conflict with the sequential test set out in LP Policy S2 and PPS6 and my findings on the accessibility of the site by a choice of means of transport, including public transport, walking and cycling, as well as by car.
16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Louise Crosby

INSPECTOR

