



Appeal Decision

Site visit made on 2 November 2009

by **Harold Stephens BA MPhil DipTP**
MRTPI FRSA

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:
12 November 2009

Appeal Ref: APP/H0738/A/09/2102926

Supreme Knitwear, New Street, Thornaby, Stockton-on-Tees TS17 6BU

- 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 Mr Nasser Din against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 09/0074/OUT, dated 14 January 2009, was refused by notice dated 9 April 2009.
 - The development proposed is a revised outline application for a mixed use development comprising of training facilities for young persons with related commercial and student housing.
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Procedural Matters

1. The application was submitted in outline, with a decision sought only on the principle of development and the means of access. All other matters are reserved for future consideration.
 2. The application was supported by a Design and Access Statement which sets out the justification for the building. A Statement of Community Involvement was submitted. This contained an information leaflet which provides key details regarding the development proposals and which was circulated to nearby residents and landowners for consideration and comment. A Transport Statement and a Travel Plan Framework have been provided. A Needs Assessment was also submitted.
 3. It was confirmed that the Council considered the planning application on the basis of the following plans: Ordnance Survey Plan (ref SBC0002); Ground Floor Plan (ref 0620/L602); First, Second and Third Floor Plans (ref 0620/L603); Fourth Floor Plan (ref 0620/L604); Fifth Floor Plan (ref 0620/L605); Elevation Treatment (ref 0620/SK005) and Proposed Visuals (ref 0620/SK006). The indicative drawings show that the building would fully utilise the triangular nature of the site with two main frontages onto Mandale Road and Middleway. The New Street frontage would be broken in order to provide vehicular access to the site. I have taken these plans into account in my consideration of this appeal.
 4. The Design and Access Statement also includes a scale and massing study to demonstrate how the indicative layout would impact on the overall street scene and the Grade II listed Thornaby Town Hall.
 5. Information was also submitted on the training element of the proposal which would be based on 'mock' services such as a hotel, laundrette and shop and would be run in conjunction with Action 4 Employment.
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Decision

6. I dismiss the appeal.

Main issue

7. The main issue in this case is whether, in the light of development plan policy, the proposal represents an appropriate use for the site.

Reasons

8. The appeal site is located on Mandale Road, within the Mandale Triangle close to the River Tees and about 1km from Stockton Town Centre. The appeal site is about 0.4 hectares in extent and is occupied by the former Supreme Knitwear building. The surrounding area comprises a mix of industrial, warehousing and retail uses. The Grade II listed Thornaby Town Hall lies to the north east of the site. The development would reach an overall height of 6 storeys. The proposal aims to provide 260 student bedrooms and the provision of training uses in association with Action for Employment on the ground floor, which may provide ancillary uses to the main use of student accommodation.
9. The statutory development plan for the area includes The North East of England Plan Regional Spatial Strategy to 2021(RSS) which was adopted in July 2008, the Stockton on Tees Local Plan (STLP) (1997) and the Alteration Number 1 to the Adopted Local Plan (2006). The 'saved' policies of the STLP remain the adopted development plan policies at the local level. The Council's Core Strategy is under preparation at the present time.
10. Policy 14 of the RSS indicates that strategies, plans, programmes, and planning proposals should support the growth and increasing role of universities and colleges in the regional economy. Policy GP1 of the STLP sets out a number of general criteria which will be used to assess proposals for new development to improve the quality of life of the residents of the Borough. Policy HO3 indicates that within the limits to development residential development may be permitted provided that it is sympathetic to the character of the locality and takes account of any attractive features on the site. Policy HO11 seeks a high standard of built environment for the benefit both of existing and future residents. Policy EN28 states that development which is likely to detract from the setting of a listed building will not be permitted and Policy EN32a relates to flood risk.
11. I note that the appeal site lies within the limits to development as defined in the STLP Proposals Map and comprises a previously developed site in terms of PPS3. It is located about 1km from the University Campus and Stockton Town Centre. I consider the proposed development would be within easy walking and cycling distance to the educational facilities and a variety of services in the Town Centre. The proposal would accord with Policy 14 of the RSS. In addition, the proposed development would be adjacent to major bus routes and Thornaby railway station and therefore would have excellent public transport links to the Tees Valley region and beyond. Overall I consider the proposed development would be sited in a suitable and sustainable location. It would meet the sustainable development and social inclusion objectives set out in PPS1 and PPS3.

12. At my site visit I saw that the appeal site is a key gateway site in the area. It is located within the Mandale Triangle where the Council has wider aspirations for regeneration. In my view the proposal would provide some key benefits in terms of regenerating this area as well as improving the surrounding environment. The existing building is not visually attractive and offers little to the street scene as a whole and the proposed redevelopment of the site would provide the opportunity to improve the appearance of the site and provide the chance of a signature high quality building in accordance with Policy HO11. Overall I consider the scale and massing of the building in the indicative design is acceptable subject to appropriate detailing. I agree with both main parties that the proposal would preserve the setting of the Grade II listed Town Hall and would not offend Policy EN28.
13. The surrounding area is made up of a mix of commercial premises and I consider the proposed development would be a suitable type of development for the Town Centre fringe area. In terms of the impact on residential amenity, I agree with the main parties that through appropriate design and the use of planning conditions regarding noise insulation, an acceptable level of amenity would be achieved for the occupiers of nearby properties and future users of the development. The proposal would accord with STLP Policy GP1 in this respect. The proposal is acceptable in principle in terms of access and highway safety and it would not pose any significant threat to flood risk. The proposed development therefore accords with Policy HO3 and EN32a of the STLP. Overall I conclude on the main issue that the proposal is an appropriate use for the site in the light of development plan policy.

Other Matters

National Planning Guidance - PPS3: Housing

14. The Government's key housing policy goal is to ensure that everyone has the opportunity of living in a decent home, which they can afford, in a community where they want to live. A key Government objective is that LPAs should continue to make effective use of land by re-using land that has been previously developed. In my view the appeal site would be developed in accordance with Government guidance contained in PPS3.

Interim Student Accommodation Policy Document

15. The Council has approached the need for further student accommodation through the preparation of an Interim Student Accommodation Policy Document (ISAPD). The document explains that major applications for student accommodation will have to demonstrate how they will meet a proven need for the development; are compatible with wider social and economic regeneration objectives; and are conveniently located for access to the University and local facilities. The ISAPD was approved by the Council on 6 November 2008.
16. The ISAPD states that Queen's Campus, which is part of Durham University, is located on Teesdale, where around 2,000 students are currently based. It points out that the University is of key strategic importance and that the need for student accommodation should be met, but only in appropriate locations, which have good access both to the educational establishments they serve and to local facilities such as shops to be in accordance with the wider sustainability objectives of the LDF. The ISAPD highlights that these developments should be

compatible with the character of the area and should not impact negatively on the amenity of neighbouring developments. I am aware that the number of applications for student accommodation has increased recently and that the Council wishes to avoid an oversupply of provision.

17. The ISAPD sets out the evidence base to inform the LDF for the student market in the Borough and argues that there are approximately 1,200 students that require accommodation. However, due to the Rialto Court development this leaves a maximum demand of about 800 students at this time. In addition, there are currently two planning permissions for purpose built student accommodation; at North Shore for 520 bed spaces and at Dovecote Street, for 36 bed spaces. Should both of these developments with extant planning consent be constructed a maximum of 250 students would be left to be accommodated elsewhere. The Council argues that if purpose built accommodation is not taken up then problems may arise in the future from difficulties adapting the layouts into accommodation for non students and also with car parking provision. It is claimed that insufficient information has been supplied to demonstrate a need for further student accommodation.
18. I have seen the evidence from Durham University which indicates that the demand for private student accommodation remains stagnant and that existing provision meets the current demand. The University acknowledges that some growth may occur in student numbers in the future at Queen's Campus, from 1,900 to 2,400 students by 2015 but this is likely to come from part-time post graduate and continuing professional development students who will not require accommodation. Durham University estimates that the demand for rented accommodation in the private sector was fairly static at about 850 bed spaces in the last two years. Of this 850 or so, 500 bed spaces are offered through the Queen's Campus operated Accreditation Scheme, by landlords with private housing of various descriptions, but mainly houses. I note that an important feature of the student population at Queen's Campus is the proportion of students who live locally and choose to live at home. Both Durham University and private letting agents indicate that there is sufficient supply of student accommodation over the short to medium term.
19. The Appellant argues that there is a demonstrable need for further purpose built accommodation. It is claimed that there are concerns about the deliverability of the existing commitments at Dovecote Street (36 beds) and North Shore (520 beds) and that these beds spaces should be discounted from any assessment of need. It is argued that the expansion of the University up to 2020 would generate additional need for purpose built student accommodation. Even in the short term, up to 2013, it is argued that there is a demand for new purpose built accommodation due to the predicted expansion of the University and taking into account development lead-in times. The scheme would be designed in a flexible way which would enable the building to be readily converted to alternative uses in the future if required. The Appellant argues that the ISAPD should not have been adopted by the Council for the purposes of deciding planning applications. Reference is made to paragraph 6.4 of PPS12 (2008) in support.
20. Bearing in mind the national advice in PPS12, I agree with the Appellant that very little weight can be applied to the Council's ISAPD in the determination of this case because it is neither a DPD nor a SPD. The ISAPD was adopted

outside the development plan system without the necessary consultation and without complying with the Councils' own Statement of Community Involvement and without meeting the requirements for Strategic Environmental Assessment. In my view the evidence provided by the Council in the ISAPD cannot be relied upon to support the statement that: "...future students are unlikely to require further accommodation." Nor do I accept that the conclusion that: "the proposal would therefore lead to an oversupply of student accommodation provision." Genuine concerns have been raised about the deliverability of existing commitments at North Shore and Dovecote Street. Although Durham University and private letting agents indicate that there is a sufficient supply of student accommodation over the short to medium term I am aware that these parties provide student accommodation on a commercial basis and therefore clearly have associated commercial interests.

21. Paragraph 29 of PPS1 The Planning System: General Principles indicates that the planning system does not exist to protect the private interests of one person against the activities of another, although private interest may coincide with the public interest in some cases. In this case the proposal would not unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest. Accordingly, I cannot attach significant weight to the ISAPD nor to the objections provided by the University and private letting agents. I conclude that the Council's ISAPD can be given very little weight, that the proposal would help to maintain a balance between the private rented and purpose built student accommodation sectors and it would not lead to an oversupply of student accommodation provision.

SPD6: Planning Obligations

22. The Council's Supplementary Planning Document 6: Planning Obligations: (SPD) has recently been adopted in May 2008. It is a material consideration and I afford it significant weight in the context of this appeal. The SPD expands on policies contained within the adopted Local Plan and on policy areas that will be the subject of future DPDs. The SPD was subjected to a six-week public consultation period together with a Sustainability Appraisal in accordance with the advice contained in PPS12: Local Development Frameworks. The Council has set out within its statement the requirements in this case to secure the following contributions: (i) £4,000 towards the provision of improved pedestrian facilities along the existing walking route to the University; (ii) £18,200 towards improvement of bus access to the Town Centre; (iii) £12,000 towards the creation of a tree lined boulevard along the Mandale Road boundary; (iv) £54,500 towards a replacement footbridge over the railway linking to Teesdale and the University Campus.
23. I consider that the matters referred to in paragraph 22 are material considerations which are relevant in this case. However, planning conditions cannot be imposed to deal with the payment of financial contributions. Paragraph 83 of Circular 11/95 advises that conditions that require payment from the Appellant, for example towards a public facility, are not acceptable and should not be used. This applies to negatively and positively worded conditions. Where appropriate an Appellant can, through a S106 Planning Obligation, be required to meet the costs of facilities needed as a result of the proposed development in accordance with the advice in Circular 05/2005. The Appellant was advised in a letter from the Planning Inspectorate dated 28 April

2009 that if it was intended to rely on a Planning Obligation and to be certain that it would be taken into account by the Inspector in reaching a decision, then a signed and dated copy of the Obligation must be submitted to the Inspectorate no later than 9 weeks from the start date of the appeal. No such Planning Obligation has been submitted in this case. In the absence of a completed Planning Obligation relating to the matters discussed in paragraph 22 above, I consider the appeal should fail. This matter is sufficient on its own to dismiss this appeal.

Conclusion

24. I conclude that the proposed development would be in accordance with the provisions of the development plan. I have considered the other relevant planning documents including national and local planning guidance, in particular the evidence contained in the Council's ISAPD and the comments from Durham University, private landlords and others. I have concluded that very little weight can be given to arguments that this proposal would lead to an oversupply of student accommodation in the area. I have also noted the comments of Thornaby Town Council and others about the likely impact of the development. I consider the proposal would bring forward clear regeneration benefits and it would improve the appearance of the area, including the setting of the listed building, in a location which is accessible to nearby services and facilities. I am aware of other recent student accommodation developments in the locality and the planning appeals referred to by both sides but I have assessed this case on its own merits. My overall conclusion is that the appeal must be dismissed solely because no Planning Obligation has been submitted in relation to planning matters which are of such importance that they must be dealt with at the outline stage. None of the other matters raised changes my overall conclusion that the appeal should be dismissed.

Harold Stephens

INSPECTOR

