



Appeal Decision

Site visit made on 24 November 2009

by **P A Goodman BA(Hons) DMS 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 December 2009

Appeal Ref: APP/H0738/A/09/2111707
10 High Street, Norton, Stockton-on-Tees TS20 1DN

- 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 Carl Ross against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 09/1032/FUL, dated 28 April 2009, was refused by notice dated 29 June 2009.
 - The development proposed is change of use from A1 to A2 on the ground floor and splitting the residential accommodation on the first and second floor to form two separate apartments.
-

Decision

1. I allow the appeal, and grant planning permission for change of use from A1 to A2 on the ground floor and the splitting of the residential accommodation on the first and second floor to form two separate apartments at 10 High Street, Norton, Stockton-on-Tees TS20 1DN in accordance with the terms of the application, Ref 09/1032/FUL, dated 28 April 2009, and the plans submitted with it (0920/OSPLAN, 0920/L102; 0920/L103), subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) A window display shall be provided at all times in the ground floor window fronting High Street.
 - 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority details of a scheme for the protection of both of the apartments from traffic noise in respect of any windows on the first and second floors affected by noise levels of 68 dB(L10(18 hour) or more; the apartments shall not be occupied unless the affected windows have been protected from the identified noise in accordance with the approved insulation scheme.
 - 4) No construction operations, including delivery of materials, shall take place outside the hours of 0800-1800 on Mondays to Fridays, and 0900-1300 on Saturdays, and not at all on Sundays and Bank Holidays.

Main issue

2. Neither the Council nor any other parties have raised an 'in principle' objection to the splitting of the existing upper floor residential accommodation into two separate apartments. Accordingly, the main issue is whether the proposed
-

change of use would cause unacceptable harm to the vitality and viability of the Norton local centre.

Reasons

3. The appeal site is located towards the southern end of High Street within Norton Town centre. The property comprises a three storey terraced property with a vacant A1 retail unit at ground floor level and four bedroom living accommodation on the 2½ floors above. It also lies within the Norton Conservation Area.
4. The most relevant development plan consideration is saved Policy S10 of the Stockton-on-Tees Local Plan Alteration No 1 adopted in 2006. This states that within the defined Local and Neighbourhood Centres (which I understand to include this part of Norton) changes of use from retailing will be resisted unless: it can be demonstrated that the character, vitality and viability of the Centre will not be adversely affected; that reasonable efforts have been made to market the premises for retail uses; it is appropriate in scale and function to the Centre.
5. At the application stage there is no evidence of the demonstrations required by policy S10 having been undertaken. The policy's demonstrations are broadly in line with the aims of national policy in PPS6 'Planning for Town Centres'. For that reason I can appreciate why both local commercial interests and the Council were concerned that the proposed change of use from an A1 retail to an A2 financial and professional services use was considered not to accord with the local policy and thus to call into question its possibly adverse impact on the vitality and viability of the centre. I also note that there were non-specific assertions from local commercial interests that A1 retail users were in fact interested in occupying the property.
6. However, with the appeal papers the appellant has expanded the available information to enable a fuller consideration. The unchallenged evidence is that from October 2008 until July 2009 the property was commercially marketed by a local RICS commercial agent on three websites including the agent's own, the Estates Gazette and the Focus site. The application's Design and Access Statement of April 2009 also includes a photograph showing that a For Sale/To Let board was prominently displayed by the same agent at first floor level. The chartered surveyor engaged by the appellant has confirmed that despite some interest from an investor, an alternative A2 user, a hot food user and others, no interest was received from either tenants or owner occupiers wishing to use the premises on an A1 retail basis. The appellant's August 2009 local centre survey shows that there is a healthy mix of uses within the centre as a whole and that unit vacancies are generally low, which general conditions I confirmed for myself during my inspection in November 2009.
7. I also noted that behind the appeal property is a busy Somerfield supermarket with a sizable car park and a pedestrian link to the traditional High Street via Maybray Kings Walk. Between this link and the appeal site is a modern, double fronted shop occupied by 'Boots', including a pharmacy. The appellant's evidence, that the pharmacy moved from the appeal premises to Nos 12-14, and that the latter formerly included a betting shop (a non A1 use), has not been challenged by the Council. There is also a car park and a bus stop in

front of this stretch of High Street which includes A2 uses including Barclays Bank and its ATM immediately next to No 10. A Tesco Express is on the far (opposite) side of High Street, along with a good range of convenience stores enjoying seemingly healthy trading conditions.

8. In the light of the available evidence I conclude that the introduction of a small A2 use in this short stretch of High Street would be unlikely materially to harm the balance of A1 and A2 uses and trading conditions in this part of the local centre. As a result I further conclude that the proposal would not harm the overall vitality and viability of the Norton town centre or the underlying aims of local plan policy S10.
9. In concluding that material considerations weigh in favour of allowing the appeal I have also considered the need for conditions to be imposed on any planning permission.
10. In my judgment the appellant's implicit suggestion of a condition requiring a shop window display is a necessary one which would help ensure flexibility and the commercial vitality of this part of High Street in the longer term.
11. I also consider that the conditions suggested by the Council's Environmental Health Officer to provide and implement traffic noise protection measures are necessary and reasonably related to that part of the proposal concerned with creating two apartments. Moreover, the latter element of the scheme would help to preserve the character and appearance of the building and this part of the conservation area in line with national and local conservation policy aims.
12. I have had regard to all other matters raised but find nothing to alter the balance of my conclusions on the main issue.

Philip A Goodman

Inspector

