



Appeal Decision

Site visit made on 21 June 2010

by **Michael Hurley BA DipTP MRTPI**

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

The Planning Inspectorate
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Decision date:
29 June 2010

Appeal Ref: APP/H0738/A/10/2122032 27 Yarm Lane, Stockton-on-Tees, TS18 3DT

- 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 Noor Hussain against the decision of the Stockton-on-Tees Borough Council.
- The application (Ref: 09/2935/COU) dated 25 November 2009, was refused by notice dated 27 January 2010.
- The development proposed is the change of use of the ground floor from A1 to A5 hot food takeaway and the installation of an extraction flue to the rear of the building.

Decision

1. I hereby dismiss this appeal.

Main issue

2. The main issues in this case are first, whether there are suitable premises for hot food takeaways in defined retail centres; and if so, whether there are exceptional circumstances to justify permitting the establishment of a hot food takeaway outside such a centre.

Reasons

3. No 27 Yarm Lane is an end of terrace property on the south side of Yarm Lane. There is a vacant shop unit on the ground floor, with a separate residential flat above. These premises are not within any designated centre as shown in the Stockton-on-Tees Local Plan.
 4. The adjoining terraced property to the west is used by the National Health Service as an addictive behaviour clinic. The other properties in this terrace are used for residential purposes, and as an estate agency. To the south of the appeal premises there is a residential area in Lightfoot Grove. To the east, there are some almshouses. On the northern side of Yarm Lane, opposite the appeal premises, there are commercial premises within a defined local centre. The appellant's intention is that the proposed hot food takeaway would remain open until 23:00 hours.
 5. Policy S14 of the Stockton-on-Tees Local Plan indicates that, outside of defined retail centres, proposals for hot food takeaways will be permitted only if there are no suitable units available within the defined centres, or there are exceptional circumstances that necessitate the use of an out-of-centre location. The Council's evidence is that there are vacant premises suitable for use as hot food takeaways within defined centres, for instance in Prince Regent Street and Oxbridge Lane. At my visit, I saw that there are numerous hot food outlets in
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Yarm Lane. It is therefore necessary to consider whether there are exceptional circumstances that would justify the use of the appeal premises as a hot food takeaway.

6. I note that the appellant does not own and could not afford either of the vacant properties in defined centres that have been referred to by the Council as being suitable for the proposed use. However, I do not consider that the appellant's financial circumstances should outweigh the objectives of the established planning policy.
7. The shop unit at No 27 Yarm Lane has evidently been vacant for a number of years. However, I understand that planning permissions have been granted for the use of this accommodation either as a clinic, or for financial services. As indicated above, adjacent properties are used for residential purposes. Given the range of potential uses to which the appeal premises could be put, I can see no good reason why this property need remain vacant for a further protracted period. I do not consider the prospect of restoring the appeal premises to a beneficial use to be an exceptional circumstance that would justify a grant of planning permission.
8. I understand that the appellant has received offers for the property for use as a hot food takeaway to serve either the Kurdish or Lebanese communities, which are concentrated in the vicinity. However, in my view, expressions of interest by the prospective proprietors of hot food takeaways who would provide Kurdish or Lebanese cuisine do not amount to exceptional circumstances sufficient to set aside Policy S14 of the Local Plan. I consider that the proposed development would be contrary to that policy, and I am not persuaded that there are overriding arguments in its favour.

Other Matters

9. I have considered the representations submitted by local people. In addition to matters of planning policy, these raise issues relating to residential amenity, traffic and parking. They include one letter of support.
10. I have taken account of all the other matters raised, including the fact that the Council's Head of Technical Services has no objection to the proposed development on highway grounds. However, I do not find any of these factors to be sufficient to outweigh the considerations that have led me to conclude that the appeal should be dismissed.

Michael Hurley

Inspector