
Appeal Decision

Hearing held on 11 October 2011

Site visit made on 11 October 2011

by Wenda Fabian BA Dip Arch RIBA IHBC

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

Decision date: 10 November 2011

Appeal Ref: APP/H0738/A/11/2156600

Furniture Outlet Stores, Portrack Lane, Stockton-on-Tees, TS18 2NR

- 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 Ifaquar Shah against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 11/0912/FUL, dated 17 April 2011, was refused by notice dated 27 June 2011.
 - The development proposed is retrospective change of use of former car showroom with workshop and stores premises (Sui Generis) to a furniture shop (Use Class A1).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether: the location of the proposal meets development plan and national policy objectives to secure accessibility by a range of transport modes; and whether the proposal is in accordance with national and local retail policy.

Reasons

3. The appeal building (some 897m² in all), is a former car showroom, with forecourt parking, situated on Portrack Lane.
4. The proposed use has already commenced. The showroom has been refurbished and converted for furniture sales and the attached large workshop and store area at the rear is in use for goods storage. The front part of the building has been in operation for this purpose since January 2011. The storage area has been progressively used since summer 2011, following closure of a warehouse facility owned by the business elsewhere. The appeal proposal is for retail use of the whole building with the exception of a small area for storage at the rear.
5. Portrack Lane is a stretch of dual carriageway leading from the A19 trunk road westwards into the town centre. Along a sizeable stretch, close to the A19, there is an established area of out of centre warehouse shopping. This is comprised of older sporadic development on both sides of the road, interspersed by newer purpose built warehouses, with some small retail parks mostly to the north of the main road, arranged around car parking.

6. Policy L1 of the *Stockton-on-Tees Local Plan, 2006, (LP)* seeks to direct new retail development to those centres listed in the policy, which do not include Portrack Lane. LP policy S2, also referred to by the Council, relates to major retail development. Notes to the policy indicate these amount to 2500m², much greater than the appeal building. Whilst the Council suggested at the hearing that it defines these as being greater than 1000 m², the appeal premises is also smaller than this figure. The policy is, therefore, of limited relevance in this appeal.
7. Policy CS5 of the *Stockton-on-Tees Core Strategy Development Plan Document, 2010, (CS)*, specifically records that Portrack Lane is an out-of-centre site with an existing recognised role, but that no additional retail development will be encouraged in it. Justification notes to the policy clarify that retail development includes changes of use. Car sales do not fall within the retail use class and as such conversion of the appeal premises for retail use as a furniture shop has resulted in a change of use for additional retail space in the Portrack Lane out-of-centre area. Policy CS5 also requires applications for main town centre uses in out-of-centre locations to be determined in accordance with PPS4¹.
8. PPS4 sets out at policy EC10 that local planning authorities should adopt a positive and constructive approach towards planning applications for economic growth. All such applications should be assessed against a number of impact assessment criteria. With respect to these, the Council has only raised an objection under b) the accessibility of the proposal by a choice of means of transport. I have no reason to doubt the Council's assessment in respect of the other criteria and I note, in respect of design, that the road front face of the existing building has been refurbished to a comparable visual quality with the other most up to date outlet shops nearby.

Accessibility

9. Core Strategy policy CS2 seeks to improve accessibility and widen transport choice by ensuring that all new development is well serviced by an attractive choice of transport modes.
10. The appeal premises, is approximately 1.5km from Stockton town centre. Shopping along Portrack Lane relates mainly to bulky goods including carpets, furniture and DIY and the main means of transport to these is by private car. Although there are good footways on each side of the dual carriageway, the area is clearly car dominated and the environment for pedestrians is not conducive to walking, nor is cycling likely to be a means of transport for this type of bulky goods shopping other than for a limited minority.
11. There is a dedicated bus service to the ASDA super store nearby, opposite the appeal site, which runs throughout the day into the late evening. However this route is via Stockton High Street and would require a change of bus to reach it from most residential areas – it is not clear whether such link routes also operate into the evening. Services at bus stops more close-by on both sides of Portrack Lane run regularly up to around 17.30, but are not available for evening shoppers or on Sundays. Whilst there is a choice of transport modes available in this location and, in these broad terms, the appeal site is in a more accessible location than many out of centre locations, they are not all attractive

¹ Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4)

as means of transport, as required by CS policy CS2. It is realistic to expect that the majority of customers will continue to arrive by car.

12. However, it is also reasonable to expect that linked trips will be made for comparison shopping within the Portrack Lane area, where there is an existing concentration of stores selling similar goods. I note that inspectors have reached a similar view in respect of previous appeals relating to retail developments in the locality. Trips from the appeal site on foot are likely to a few carpet and interior products outlets close-by, but the main concentration of this type of outlet is further along Portrack Lane from the appeal site, beyond the roundabout, and customers are likely to use their car to access these. Nevertheless, although short independent car journeys may occur along Portrack Lane between these locations, they would be as part of a linked trip from a home base substantially further away. Thus, the location of the appeal site would be unlikely to lead to a substantial increase in 'one-off' journeys by private cars.
13. Nevertheless, when compared with town centre sites where there is better access to a wider choice of public transport, the appeal site is not in a highly accessible location and the broad compliance that I have identified with national and local policy objectives to secure accessible development does not weigh strongly in its favour.

Retail policy

14. PPS4 policy EC14 sets out the evidence required to support applications in respect of main town centre uses. These include a sequential assessment, under policy EC15. An assessment of impacts is also required, against policy EC16.1, for proposals (such as this one) that are not in a town centre and are not in accordance with an up-to-date development plan. The Appellant submitted a Retail Statement, including an impact assessment, with the application. The Council accepts its conclusion; that there would be no significant adverse impacts arising from the development and has raised no objection to the proposal in this respect. I have no reason to differ from this stance.

Sequential assessment

15. The appellant has provided a sequential assessment, which details ten alternative sites. In relation to policy EC15.1 a), each of these is available, but the appellant considers them either not suitable in terms of floor area or not viable in relation to high rent. They include six within Stockton town centre, the Borough's main shopping centre, where CS policy CS5 sets out that the need for additional capacity can mostly be met through committed developments and the occupation and reoccupation of vacant floor space.
16. Of the six available town centre premises identified, all are assessed by the appellant as too small. Whilst most (such as 145-146 High Street) provide around the total floor area required by the appellant, this is spread over two or three storeys. I accept that the use of storage on upper floors would be impractical for large, often heavy, furniture, due to the difficulty of handling up and down stairs.
17. However, Unit 22 Wellington Square, has a ground floor area of 545m². At present the appellant actually trades from an area of some 351m² and it is not clear why an area of around 890m² has been identified as required, other than

that this is the existing overall size of the appeal premises. A combined total of around 890m² of sales and warehouse storage may be desirable, for future business development reasons, but PPS4 requires developers to be flexible in their approach. It seems reasonable to expect that a floor area such as that at Unit 22, which is substantially greater than the current sales floor, could be feasible, with the storage provision off site possibly close-by. It is not clear from the appellant's submissions why this could not be made to work.

18. The other objection raised to this particular unit (as well as for all the other town centre sites identified) is that it would not be financially viable for the appellant. The annual rent of £85,000 for Unit 22 is for a 15 year lease whereas the appellant currently pays £18,500pa and enjoys a short lease, with an option to buy. In addition town centre premises attract higher rates than the business can support; the appellant currently pays annual rates of £19,852 whereas those for Unit 22 are around £40,000.
19. Of the town centre premises identified by the Council² only one (144 High Street, with a ground floor of 666m²) would, potentially, be suitable in terms of floor area. The Council did not produce evidence on rental, but the appellant suggested that this premises also would be unaffordable on the basis of the rental recorded for the adjacent property in his sequential assessment. In addition, as it is currently in use by a charity, he also suggested that there would be a long lead-in to securing a lease on it. Nonetheless, the possibility has not been fully assessed.
20. In relation to the affordability of town centre rents, apart from recording an approximate net turnover of £0.26million per year, the appellant has provided little other financial information on profit, staffing or running costs to demonstrate that town centre rents would not be affordable for his business.
21. His concern with regard to business viability appears to be supported by the *Practice guidance on need, impact and the sequential approach*, which seeks to clarify the application of the sequential approach set out in PPS4. This acknowledges at paragraph 6.31 that in many cases development for the sale of bulky durable goods such as furniture are regarded as complementary to the role of town centre retailing, and do not generate sufficient sales productivity to trade in prime town centre locations. However, I note that rentals shown in the assessment for some of the premises on Portrack Lane are of the same level of magnitude as those recorded for the town centre units. As several of the similar adjacent warehouse-type retail premises appear to operate successfully for furniture retail, this reduces the persuasiveness of the appellant's argument.
22. Other difficulties raised by the appellant in relation to the delivery and collection of large bulky goods inevitably exist for many existing town centre businesses. I saw that arrangements are in place, even within pedestrianised areas, to facilitate this and there is a large area of public parking extremely close to the Wellington Square shops, such that a management approach could be devised to help customers take goods to their cars.
23. I am unconvinced from the evidence put before me that all available town centre locations for the appeal business have been demonstrated to be either not suitable or not viable in terms of the requirements for a sequential

² Doc 1

assessment set out by PPS4. On this basis alone the proposal has failed to comply with PPS4 policy EC17.1 a) and according to the policy should be refused.

24. I note the other appeal decisions drawn to my attention in respect of retail developments in the Portrack Lane area. However, most of these predate PPS4 and the adoption of the Core Strategy and, further, the retail area required in the 'Suiteworld' appeal was around double the retail area sought in this case, with no suitable vacancies in the town centre identified.
25. Turning to the other premises explored by the appellant. Only one edge of town centre vacancy, the former MFI premises at Parkfield, was assessed. At 1,879m² it far exceeds the appellant's required sales area. However, no consideration seems to have been given to the potential for sub-division of these premises, which are in a sequentially preferable location to the appeal site.
26. Finally, three alternative vacant retail premises were assessed within the Portrack Lane out of centre area. The former Mandale Furniture unit at 559m² was assessed as too small. For the same reasons as set out at paragraph 17 in relation to a flexible approach to retail requirements, the appellant's sequential assessment is not completely thorough or comprehensive in respect of this property.
27. Unit 3 Portrack Retail Park (966m², only a little larger than the target size) was dismissed as too expensive at a rent of £88,642pa and rates of £45,288pa. As set out at paragraphs 20 and 21, little convincing evidence on viability has been put forward.
28. The appellant has drawn attention to the draft National Planning Policy Framework, which places an emphasis on economic growth. However, as this could still be subject to amendment at this stage of the parliamentary process, it carries less weight than the development plan and national policies referred to above.

Conclusion

29. Whilst the appeal site would comply broadly with national and local policy objectives for accessible development, the change of use as proposed would introduce a new retail development in an out of town centre location without demonstrating compliance with the requirements of the approach to the sequential assessment of available alternative sites within the town centre, the edge of centre or on Portrack Lane. The proposal fails to accord with national and local retail policy, in particular CS policy CS5 and PPS4 policy EC17.1 and, consequently, the appeal should be dismissed.

Wenda Fabian

Inspector

APPEARANCES

FOR THE APPELLANT:

Dr J England	England & Lyle
Miss T Barber	England & Lyle
Mr I Shah	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr D James	Stockton-on-Tees Borough Council
Mr S Grundy	Stockton-on-Tees Borough Council

DOCUMENTS

- 1 Emails dated 10 June 2011 and 11 October with attached Schedule of Available Space
- 2 Suggested conditions

PLANS

- A Location Plan