



Appeal Decision

Site visit made on 6 August 2012

by **Mrs K.A. Ellison BA, MPhil, MRTPI**

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

Decision date: 11 September 2012

Appeal Ref: APP/H0738/A/12/2173578

The Owington Farm, Longfellow Road, Billingham, Cleveland TS23 3TL

- 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 Mitchells and Butler plc against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 12/0009/REV dated 3 January 2012 was refused by notice dated 24 February 2012.
 - The development proposed is a use class A1 retail development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An amended layout plan was submitted at appeal stage showing the proposed retail unit re-sited a little further away from the northern boundary and this was accompanied by an indicative landscape plan. As the Council points out, residents living nearby who have shown an interest in the proposal would be likely to wish to comment on such matters. Thus, whilst I note that the amended layout might address the Council's concerns, I consider that the change is of sufficient substance that others with an interest in the appeal ought to be given the opportunity to comment on it. Consequently, I have determined the appeal on the basis of the same plans which were before the Council at the time it made its decision.

Main Issues

3. The main issues are:-
 - (i) whether the proposal accords with current local and national policies for the location of retail development;
 - (ii) the effect of the proposal on the character and appearance of the surrounding area;
 - (iii) its effect on the living conditions of nearby residents;
 - (iv) its effect on highway safety.

Reasons

4. The appeal site is part of the car park to a public house and lies within an extensive area of modern residential development around the northern

outskirts of Billingham. The proposed unit would have a gross floorspace of just over 340sqm and an anticipated sales area of 240sqm, of which about 216sqm would be for convenience goods.

Issue 1- the location of retail development

5. The Appellant contends that this proposal should be assessed against the provisions of Local Plan policy S15, which sets out criteria for the assessment of small scale retail use outside identified centres. The supporting text to the policy explains that 'small scale shopping' is considered to be 'that which reflects the locality in terms of the type of provision and scale of development'. There is also reference in the text to the need for individual shops or corner shops that are within a reasonable walking distance of residential areas, giving 400m as an example of this.
6. According to the Appellant, the proposed store is intended to meet demand for top-up shopping and to serve a localised, walk-in catchment. The catchment plan is based upon an approximate 1km radius of the appeal site but it extends north and west to include the nearby villages of Newton Bewley and Wolviston, due to their lack of top-up shopping facilities and excludes some areas to the south, given their proximity to Billingham town centre.
7. The Appellant provides information concerning two neighbourhood centres in or close to the defined catchment area. Tunstall Avenue contains six units including two confectionery, tobacco and newsagent stores. Low Grange has five outlets including a convenience store of about 80-100sqm net. The Council also gives details of floorspace in other neighbourhood centres, none of which are larger than 200sqm. In comparison therefore, the proposed retail unit would be substantially larger in scale than other units in the locality and the type of provision could, accordingly, be expected to be significantly more varied. This point is given greater force by the indicated catchment area, which would appear to be much more extensive than the areas likely to be served by the units in the existing centres. On that basis, I consider that the proposal does not reflect provision in the locality so that it should not be regarded as a small scale retail use within the terms of Local Plan policy S15.
8. As a consequence, the relevant development plan policy would be Core Strategy policy CS5, which sets out the approach to development within the identified hierarchy of centres within the Borough. It goes on to state that proposals for main town centre uses in out of centre locations will be determined in accordance with prevailing national policy. The National Planning Policy Framework (the Framework) states that a sequential test should be applied to proposals for main town centre uses and that out of centre sites should only be considered if suitable sites are not available in town or edge of centre locations (paragraph 24). Also, where an application fails to satisfy the sequential test it should be refused (paragraph 27).
9. In the context of the hierarchy identified in Core Strategy policy CS5, I agree with the Council that this would require consideration of sites within or on the edge of Billingham town centre. Although the Appellant has reviewed the availability of sites within the catchment area, no information has been provided in relation to town centre or edge of centre locations. It has not been shown, therefore, that the proposal accords with prevailing national policy as regards the application of the sequential test so that, in this regard, it also fails to satisfy the terms of Core Strategy policy CS5.

Issue 2 - character and appearance

10. The surrounding area is overwhelmingly residential in character, being laid out as an open plan estate in a series of loop roads and small culs de sac. Even the public house, which is the only commercial use in the immediate area, has the character of a residential building. Although it is proposed to incorporate red facing brickwork in the retail unit, it would still be strongly commercial in appearance, partly due to its comparative size and scale but also in the extensive use which would be made of metal-faced cladding to the elevations and roof as well as the large areas of glazing to the front elevation. As a result, it would appear incongruous in the context of the open, residential character of the surrounding estate.
11. On that basis, I consider it would have a significant adverse effect on the character and appearance of the surrounding area so that it would be contrary to Core Strategy policy CS3 part 8 which requires the design of new development to make a positive contribution to the local area by, among other things, responding positively to features of local character.

Issue 3 – living conditions

12. The site is bordered to the north by residential properties in Lowell Close. These houses have quite modestly sized rear gardens bordered either by fencing or a wall up to a height of about 2m. There is also a modest amount of vegetation along this edge of the car park. As the Council points out, the proposed retail unit would protrude some way above the current boundary, being some 4m to eaves height and situated about 4m into the site. Whilst this would allow for a certain level of planting, I consider that it would be insufficient to ensure that the outlook from these properties was maintained to an acceptable standard. In this respect, I note that at appeal no justification has been offered for the proposed siting, as originally made.
13. To my mind, the building would appear obtrusive and overbearing in views from the adjacent residential properties. As the proposal stands, therefore, I consider it would have an unacceptably adverse effect on the living conditions of residents. The provisions of Core Strategy policy CS3 part 8 do not appear to bear directly on this aspect of the proposal but it would fail to satisfy the requirements for good design set out in the Framework, such as in relation to making places better for people (paragraph 56).

Issue 4 - Highway safety

14. Allowing for the reorganisation of the car park, the proposal would provide 50 spaces to serve the retail unit and public house together. This level of provision is supported by a parking accumulation survey.
15. This would be below the Council's maximum standards, which indicate up to 13 spaces for the retail unit and 46 for the public house. Also, the Council suggests that the survey is not sufficiently robust because of the point in the month at which it was conducted. However, whilst it may be that levels of use at the public house will vary from week to week, there is no evidence to show the extent of any such patterns in this locality or whether they would appreciably affect demand for car parking spaces. As such, I consider that the submitted parking accumulation survey is sufficiently robust, even though it relates to a weekend in the middle of the month.

16. The survey shows peak demand occurs in the early evening and again a few hours later but, as the highest figure is 35, it would still be well within the capacity of car parking spaces to be provided. Parking demand for the proposed retail unit would also be likely to follow a similar pattern, with highest demand occurring in the late evening, giving a total requirement for 43 spaces. Thus, the survey indicates that maximum demand would still be well within proposed capacity. As such, I consider that the level of parking to be provided would be adequate for the development proposed.
17. Deliveries to the retail unit would be made in the north eastern part of the site and would require use of five of the parking spaces. Whilst not ideal it would be possible, as the Appellant points out, to impose a condition to ensure that delivery times did not coincide with periods of peak parking demand.
18. The Appellant confirms that there would be no change to the delivery arrangements for the public house. I take the point that this service area is close to the site access point and there would be some reduction in manoeuvring space as a result of the reorganised parking arrangements. Even so, it seems to me that there would be sufficient scope within the proposals to ensure that these arrangements would not be hazardous to others.
19. On this issue therefore, I conclude that the proposal would not have an adverse effect on highway safety.

Conclusions

20. Although the proposal has not been shown to be unacceptable on highway safety grounds, I have found that it would fail to satisfy current policies concerning the location of retail development and that it would cause undue harm to the character and appearance of the area and the living conditions of residents.
21. I appreciate that the proposal may deliver other benefits such as a reduction in travelling distances and car use in relation to top-up shopping trips which originate in the northern part of Billingham but this is not sufficient to outweigh the conflicts with local and national policy.
22. For the reasons given above, I conclude that the appeal should not succeed.

K.A. Ellison

Inspector