
Appeal Decision

Site visit made on 21 July 2014

by Matthew Birkinshaw BA(Hons) Msc MRTPI

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

Decision date: 13 August 2014

Appeal Ref: APP/H0738/A/14/2220373

49 Redhill Road, Stockton-on-Tees, Cleveland, TS19 9BX

- 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 H Shan against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 14/0059/COU, dated 2 January 2014, was refused by notice dated 28 March 2014.
 - The development proposed is the change of use of retail shop to hot food takeaway and ducting to rear.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the principle of the proposed change of use is acceptable, having particular regard to local planning policy which seeks to resist changes of use from retailing within Local and Neighbourhood Centres.

Reasons

3. The appeal relates to a vacant retail unit which forms part of a parade of shops within a defined Neighbourhood Centre in Roseworth. Of the policies referred to by the Council *Stockton-On-Tees Local Plan* (Alteration No.1) Policy S10 is the most relevant. It states that changes from retailing within Local and Neighbourhood Centres will be resisted unless the character and vitality and viability of the Centre will not be adversely affected, the proposed use is appropriate in scale and function to the Centre, and that reasonable efforts have been made to market the premises for retail uses.
4. During my site visit I saw that the Neighbourhood Centre contains a mix of uses including convenience stores, betting shops, hairdressers and takeaways. In this context the addition of another takeaway would not undermine the varied character of the Centre. Compared to the vacant retail unit it would also improve the vitality and viability of the parade, despite potentially being closed during the early parts of the day. Furthermore, as the takeaway would be aimed at providing a service to residents of the local area it would be appropriate in scale and function to the Neighbourhood Centre. The scheme would therefore accord with Local Plan Policy S10 criterion (i) and (iii).

5. However, whilst the appeal property was marketed at an undisputed rental level from the start of 2011 until the end of 2013, it was only ever advertised on the proprietor's own website. No letting's agent was used to market the shop and no advertising board was displayed at the site. As a result, although three applications were made for the two vacant units on the parade the majority of potential retail occupiers may not have been aware that the appeal property was even available.
6. On this basis I agree with the Council that the proposal falls significantly short of a robust case to demonstrate that no other interested parties are prepared to re-open the shop. By only listing the unit on the owners' website, and not actively advertising that it was available, either through a recognised local agent or by erecting a board at the site I am not persuaded that 'reasonable' efforts have been made to market the premises for retail uses. For the same reason, whilst other vacant units have been let to existing retailers in the past, it is not possible to substantiate assertions that the lack of interest shown was due to the size of the parade or number of competing businesses.
7. In reaching this conclusion I have taken into account the appellant's suggestion that a similar method of advertising vacant properties has been in place for over 25 years, and has previously been accepted by the Council. However, no evidence has been provided to substantiate this. Nonetheless, it is necessary to consider the proposal on its specific merits, and in this case, I consider that only listing the shop on the owners' website does not constitute an adequate or robust process of establishing a lack of demand for other retail operators.
8. I therefore conclude that without making reasonable efforts to market the premises for retail uses the proposal conflicts with Local Plan Policy S10 (ii). The aims and objectives of this policy are also broadly consistent with the National Planning Policy Framework which seeks to protect the vitality and viability of centres in promoting sustainable communities. Allowing a change of use from retailing without making reasonable efforts to market the premises would be likely to undermine, and result in material harm the role and function of the Neighbourhood Centre in Roseworth.

Other Matters

9. In reaching my conclusion against the main issue I note that *Stockton-On-Tees Local Plan* (Alteration No.1) Policy S14 specifically supports food and drink uses in retail centres. However, it also requires that the criteria of Local Plan Policy S10 are satisfied.
10. I also appreciate that there would be several social and economic benefits from reusing a vacant unit in a neighbourhood shopping parade, and recognise that some local residents have expressed an interest the proposed Indian-food takeaway as there is not one nearby. Moreover, the Council has not raised any concerns in relation to highway safety, the effect of the proposal on the living conditions of neighbouring residents or in relation to waste management. Based on the evidence provided, I see no reason to disagree.
11. However, this does not outweigh the conflict I have identified with development plan policy, or justify allowing the appeal without making reasonable effects to find an alternative retail use for the unit first.

Conclusion

12. For the reasons given above, and having had regard to all other matters raised, including the owners' shop letting policy, I conclude that the appeal should be dismissed.

Matthew Birkinshaw

INSPECTOR