



Appeal Decision

Site visit made on 24 April 2018

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2018

Appeal Ref: APP/H0738/W/17/3185336

Old Post Office, 7 High Street, Norton, Stockton on Tees TS20 1AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Janice Woodhouse (Wyns Taverns) against Stockton-on-Tees Borough Council.
 - The application Ref 17/0836/COU, is dated 3 May 2017.
 - The development proposed is change of use of ground floor former Post Office and Convenience Store (A1 premises) to proposed bar and restaurant (A3 / A4), including installation of a flue to rear and altered windows / doors.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor former Post Office and Convenience Store (A1 premises) to proposed bar and restaurant (A3 / A4), including installation of a flue to rear and altered windows / doors at Old Post Office, 7 High Street, Norton, Stockton on Tees TS20 1AH in accordance with the terms of the application, Ref 17/0836/COU, dated 3 May 2017, subject to the conditions set out on the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by Wyns Taverns against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council failed to give notice within the prescribed period of a decision on an application for planning permission, the terms of which are set out in the banner heading, above. The Council has however set out a putative reason for refusal in their Appeal Statement, as set out below:

In the opinion of the Local Planning Authority the applicant has failed to satisfactorily demonstrate that the proposed development would not increase on-street vehicular parking along Norton High Street and the surrounding road network thereby adversely affecting the free flow of traffic and Highway Safety.

4. Although I have been referred to the Council's emerging Publication Draft Local Plan (published for public consultation in September 2017) I have not been advised that this document has been found to be sound or subsequently adopted by the Council and so its policies and provisions may still be subject to change and revision. The weight that I can give its provisions is therefore limited.

Main Issue

5. Thus, with reference to the matters set out above, I consider the main issue to be the effect of the proposed development on highway safety.

Reasons

6. The appeal site lies in a mid-terrace location on Norton High Street, within the Norton Local Neighbourhood centre. Formerly a Post Office and convenience store, the appeal property was vacant at the time of my visit to the site.
7. Internally, the arrangement of the unit provides access through to a garage / store area that, in turn, opens out on to Fox Street to the rear. However, despite the presence of the garage / store area there is no parking associated with premises.
8. Externally, to the front the appeal property is adjacent to a bus stop, beyond which to the south the High Street narrows with parking restrictions on both sides of the road. To the north, however, High Street opens up and increases in width with parking bays on both sides of the road. At the rear, the garage / store area backs on to Fox Street and Chapman Street. Although predominantly residential in character, the Norton Village Club has a significant presence within Chapman Street, opposite which lies a hot food takeaway.
9. The proposed change of use seeks to create a dining area with up to 50 covers. There are no proposals within the scheme of conversion for the provision of parking and the proposal would thus be reliant on existing parking within the surrounding area.
10. Whilst there are parking restrictions in place on High Street outside the appeal site, there are multiple on-street parking areas within the wider Norton High Street local shopping centre. Following downward revisions to the parking requirements calculated during various iterations of the proposals relating to No. 7, it is agreed that the parking requirement has been calculated at 11 spaces. Clearly, the proposal cannot, nor does it seek to, meet this requirement within the appeal site.
11. However, as part of that process, the appellant has identified a range of nearby on- and off-street parking areas. Noting the parking restrictions and other impediments (eg, bus stops) on High Street immediately outside the appeal site, these are in the streets around the appeal site and within the wider local shopping area. In this respect, I suspect that the appeal site differs little from the majority of commercial premises within the local centre in relying upon existing on- and off-street parking provision.
12. At the time of my visit to the site¹ I found the local centre to be a bustling area and reasonably busy. However, I also saw that there was both availability, and turn-over, of car parking spaces within the time that I was on site. My findings, albeit clearly presenting a snapshot of activity within the local centre, do not appear at odds with those of the appellant². Nor do the findings of the survey set out therein contradict those previously identified in relation to a previous proposal for which a similar survey was carried out that, I am advised, the Council found to be acceptable.

¹ 1130 – 1200 - 24.04.18

² Final Comments

13. I note that the Council do not object to the proposal in terms of trip generation. I have carefully considered the Council's concern that the proposal would, due to the shortfall of 11 parking spaces agreed upon by both parties, be prejudicial to highway safety in the vicinity of the appeal site in the form of indiscriminate parking. This concern is expressed in the belief that the proposal would lead to additional pressure for on-street parking, for which I understand that the Council already believe there to be a correlation between parked vehicles and accidents in the area. However, whilst I accept that there may be potential for vehicles to park indiscriminately, it is also clear that such concerns already exist. Notwithstanding the Council's concern regarding accidents arising from parked vehicles, it seems to me that the parking restrictions already in place should, if properly and appropriately enforced, act as sufficient disincentive to inappropriate parking outside the appeal property.
14. Moreover, the Council make the point that, as a restaurant, patrons are likely to be parked for longer, thereby reducing turnover of spaces and increasing the length of time for which vehicles are parked. However, I am inclined to think that should that be the case, patrons would be less likely to park indiscriminately, particularly given that it is accepted that visits to the proposed use would be longer than for the previous use and drivers may therefore be less likely to risk parking indiscriminately. However, I am satisfied that the appellant has demonstrated that there remains sufficient capacity to accommodate the requirement of 11 parking spaces that the proposal would generate in the context of a local centre with a mix of uses, and means of transport to access those uses.
15. Thus, for the reasons I have set out, I am not persuaded that the proposed change of use of the former post office and convenience store to a bar and restaurant would result in an increased level of on-street vehicle parking on surrounding streets that would adversely affect the free flow of traffic, or otherwise prejudice highway safety. The putative reason for refusal is not anchored by reference to any development plan policy, but from the policies referred to by both parties in the submissions, I am satisfied that the proposal would be not be in conflict with saved policy S14, which requires proposals for A5 uses to be considered against, amongst other factors, provision of parking facilities and traffic generation and the general amenity of the area. Nor do I consider the residual cumulative impacts of the proposal to be severe on transport grounds, as set out by the National Planning Policy Framework (the Framework)³.

Other Matters

16. As the appeal is against the Council's failure to determine the application within the prescribed period, the Council's case is set out in their Appeal Statement (statement), in which they provided only one putative reason for refusal. I have dealt with that matter in the section above.
17. However, the statement also considers other matters, such as the impact of the proposal on the amenities of neighbouring residents, and upon the character and appearance of the wider area, which includes the Norton Conservation Area. I note that the Council are satisfied that such matters may be considered sufficiently and adequately resolved by way of the imposition of conditions regarding hours of operation, delivery times and fume extraction

³ Paragraph 32, 3rd bullet point

details. I have not been presented with any further evidence that would lead me to conclude otherwise. I also concur with the conclusion reached by the Council that the proposal would not adversely affect the character or appearance of the surrounding area. As such, it would preserve the character and appearance of the Norton Conservation Area, and I am statutorily required to give special attention to the desirability of preserving or enhancing the character or appearance of that area.

18. With regard to the principle of the change of use to a bar / restaurant use, the Council express concern in their statement that the proposal would result in an over-concentration of such uses, and that no evidence of the proper marketing of the property has been submitted. As such, they contend that the proposal would be contrary to saved policy S10.
19. The appellant states that the appeal property has been marketed, without interest, for a considerable length of time. As no evidence has been submitted to substantiate such a claim, the proposal would not accord with criterion ii) of saved policy S10. However, I am also advised that the property has been vacant for a considerable length of time. Its shuttered and somewhat neglected frontage detract from an attractive and otherwise busy part of the local centre and, whilst I have no evidence of its marketing history before me, the bringing back into use of the premises would contribute to the broad mix of uses found within the Norton village local centre. Whilst contrary to saved policy S10(ii), the proposal would bring a vacant unit back into meaningful economic use adding to the range of uses within the centre and, in that context, I am not persuaded that the proposal would adversely affect the vitality and viability of the local centre, or that it would therefore be contrary to criterion (i).
20. Furthermore, I have already noted that the Council have confirmed that they are satisfied that the proposal would not cause harm to the character or appearance of the local area or the residential amenities or living conditions of nearby residents. Nor has it been argued that the proposal would result in the loss of, or detrimental alteration to, a building of historic, architectural interest. Thus, the proposal would accord with criterion (iii) and with sub-criteria (1), (2) and (3) of (iv).
21. Taking these factors together, and noting that the Council did not cite the principle of the proposal as a putative reason for refusal, I find that these factors outweigh the proposal's failure to fully accord with criterion (ii) of saved policy S10.

Conditions

22. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. Where necessary, I have amended the suggested conditions in the interests of precision.
23. Although not expressly stated by the Council, I have imposed time limit and plans conditions in order to provide certainty and clarity. To do so would not come as a surprise to either party and I am satisfied that neither would be disadvantaged as a consequence. Conditions regarding noise from plant and machinery, noise transference, number of covers and hours of operation are necessary and reasonable in the interests of living conditions, whilst a condition regarding flue details is necessary in the interests of character and appearance.

Conclusion

24. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 160317 001 Rev P2; 160317 002 Rev P4, extraction details, extraction information and proposed canopy detail.
- 3) Notwithstanding the submitted details, the number of table covers within the internal restaurant and the outside seating areas shall not exceed 50.
- 4) The rating level of sound emitted from any fixed plant and/or machinery associated with the development shall not exceed background sound levels by more than 5dB (A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142: 2014 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.

- 5) The rating level of sound emitted from the proposed bar / restaurant use shall not exceed the following criteria at the nearest sound sensitive property:
 - Dwellings indoors in daytime: 35 dB LAeq,16 hours
 - Inside bedrooms at night-time between hours of 23:00 - 07:00) 30 dB LAeq,8 hours (45 dB LAm_{ax})

Should these levels be exceeded an acoustic report shall be submitted to the Local Planning Authority, detailing a scheme for the protection of noise from the ground floor commercial units. The submitted report shall be approved in writing by the Local Planning Authority and the necessary works be undertaken to mitigate any unacceptable levels of noise created from the restaurant use.

- 6) The hereby approved Bar / Restaurant use shall not be open to customers outside the hours of 09:00 - 00:00 Monday to Sunday.
- 7) The Proposed external flue system and specification of the ventilation and fume extraction system shall be installed in accordance with the submitted and approved details unless otherwise agreed with the Local Planning Authority. The approved scheme shall be implemented in full prior to the commencement of the proposed uses and shall be retained thereafter and maintained in accordance with the specification, including the replacement of any filters and mounts.

- 8) No construction / demolition works or deliveries shall be carried out except between the hours of 8.00am and 6.00pm on Mondays to Fridays and between 9.00am and 1.00pm on Saturdays. There shall be no construction activity including demolition on Sundays or on Bank Holidays.