



Appeal Decision

Site visit made on 23 July 2020

by **M L Milliken BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 August 2020

Appeal Ref: APP/H0738/W/20/3245621

30 Norton Road, Stockton, Cleveland TS18 2BS

- 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 A Ilies against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 19/1261/FUL, dated 20 May 2019, was refused by notice dated 6 December 2019.
 - The development proposed is change of use to hot food takeaway and ducting to rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) The effect of the proposal on the character and appearance of the area, including whether or not the proposed development would preserve or enhance the character or appearance of the Stockton Town Centre Conservation Area (the CA);
 - (ii) The effect on the vitality and viability of the town centre; and
 - (iii) The effect of the proposal on the living conditions of nearby residents, with particular regard to the potential for odour and noise.

Reasons

Character and appearance

3. The appeal property is located within the CA, along a row of existing commercial properties on one of the main routes through the town centre. From the evidence before me, the significance of the CA appears to relate, in part, to the original high street and its market town character. Many of the historic frontages of the buildings remain and although there are some visible unsympathetic developments present, much of the traditional character remains intact.
4. Whilst not displaying any particular heritage features in itself, the appeal property, including the rear of the building, forms an integral part of the terrace and of the wider CA and contributes accordingly. By virtue of its traditional terrace form, materials and its location within the CA, it is considered that the appeal property makes a positive contribution to the significance of the historic asset.

5. The appeal site is also located within the Townscape Heritage Initiative Area (THIA). The proposal would comprise the change of use of the existing retail unit to a hot food takeaway. Whilst no changes are proposed to the front of the building, it is clear from the submitted drawings that a significant flue would be located to the rear of the property, which would terminate above the second storey. By virtue of its size and proposed materials, the flue would be clearly visible from a number of nearby properties, including those currently under construction to the rear of Norton Road, and would appear as a visually intrusive, overly dominant feature in the street scene. The presence of a flue to the rear of another property along the terrace is noted however I do not know the full planning particulars of that development and therefore cannot draw a direct comparison. In any event, the presence of another flue within the vicinity does not diminish the inappropriateness of this particular aspect of the appeal proposal.
6. For the reasons given, the proposed development would result in less than substantial harm to the character and appearance of the CA. Paragraph 196 of the National Planning Policy Framework (the Framework) requires that, where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
7. I have had regard to the appellant's comments, including the desire to bring a vacant unit back into operation and the creation of employment opportunities. Although I accept that the proposed takeaway would broadly accord with the Framework's commitment towards regeneration and result in a number of jobs and an additional choice for people wanting to buy hot food, for the reasons given it is not considered that the proposed takeaway is acceptable in the location proposed and it would therefore not be appropriate.
8. Whilst it is acknowledged that there are a number of later extensions and alterations present within the vicinity of the site, it is not accepted that such pre-existing unauthorised works are considered appropriate in the local context or otherwise acceptable, as they have an adverse effect on the significance of the historic asset. In any event, I am determining this appeal on its merits.
9. Whilst I have had regard to the benefits put forward by the appellant, I do not consider that the public benefits proposed outweigh the harm that I have identified. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also a matter of considerable importance and weight.
10. For the reasons stated, the proposal would conflict with adopted Policies SD5 and HE2 of the of the Stockton-on-Tees Borough Council Local Plan (SONBCLP) (adopted January 2019), which seek to ensure the conservation and enhancement of the historic environment and assets.

Effect on the town centre

11. With regard to the vitality and viability of the town centre, the proposal would comprise a hot food takeaway. Adopted Policy EG2 of the SONBCLP (2019) seeks to resist the over-concentration or clustering of hot food takeaways in the town centre, including in areas away from the primary shopping frontage.

12. Whilst I note the appellant's comment regarding the fact that the proposed use would be located outside the primary shopping frontage and that the current premises is not classified as a key retail unit and has been vacant for some time, the proposed hot food takeaway would still be located within the town centre. Although it is accepted that the facility would be open during daytime and evening hours and would therefore support the local economy, there are already a number of hot food takeaways located along the existing commercial parade, including an adjacent property. I also note the appellant's evidence with regard to the existing level and resultant percentage increase in the number of hot food takeaways within the local area as a result of the appeal proposal gaining consent, however it is also noted that, since the policy offers no thresholds, the issue of over-concentration is a matter of planning judgement in this case.
13. From the evidence before me and from my site visit, the proposal would result in a total of four out of approximately fifteen properties along the parade in question operating as hot food takeaways, in an area where development plan policy explicitly seeks to avoid over-concentration and clustering of that particular use. For this reason, it is considered that the proposal would contribute towards the over-concentration of hot food takeaways along this stretch of Norton Road, contrary to development plan policy.
14. Overall, the proposal would therefore have an adverse impact on the vitality and viability of the town centre, contrary to adopted Policy EG2 of the SONBCLP (2019).

Living Conditions

15. The proposed hot food takeaway would be located beneath an existing residential use. I note the evidence provided with regards to noise, including an assessment report and the appellant's suggested planning conditions to ensure that the effect of noise and odour is acceptable. It is noted however that the noise assessment work as submitted does not include the residential development currently under construction to the rear of Norton Road. I also note the Council's outstanding concerns regarding internal insulation, together with the proposed specification and location of the flue, including the potential for future odour issues, particularly in relation to existing residential occupiers of the floors above.
16. I am therefore not satisfied that there is sufficient evidence before me to confirm that the outline mitigation proposed has been suitably informed and would therefore be adequate.
17. For the reasons provided, the proposal would have an adverse effect on the living conditions of nearby residents, with particular regard to noise and odour, contrary to adopted Policy SD8 of the SONBCLP (2019) which seeks to ensure that proposals respond positively to the amenity of all existing and future occupants of land and buildings.

Other Matters

18. Whilst I note references made by the appellant in relation to paragraph 11 of the National Planning Policy Framework (the Framework), an up to date development plan exists in respect of this proposal and the proposed

development does not accord with the plan as whole, with specific regard to the policies as cited.

Conclusion

19. For the reasons given, I therefore find that the proposal would not comply with the development plan as a whole and that this conflict is not outweighed by other material considerations. Accordingly, the appeal should be dismissed.

M L Milliken

INSPECTOR