
Appeal Decision

Site visit made on 15 August 2016

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: 23 September 2016

Appeal Ref: APP/M3455/W/16/3149044

Costcutter, Beaconsfield Drive, Blurton ST3 3DY

- 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 Avtar Singh against the decision of Stoke-on-Trent Council.
 - The application Ref 58867, dated 24 September 2015, was refused by notice dated 23 December 2015.
 - The development proposed is a single storey side extension to form hot food takeaway.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey side extension to form hot food takeaway at Costcutter, Beaconsfield Drive, Blurton ST3 3DY in accordance with the terms of the application, Ref 58867, dated 24 September 2015, subject to the 6 conditions set out in the attached schedule.

Main Issue

2. The main issue raised by this appeal is whether the proposal would have a significant adverse effect on the vitality and viability of the Local Centre on Finstock Avenue.

Reasons

3. The appeal site adjoins a convenience store, Costcutter, which fronts Beaconsfield Drive. The surrounding area is predominantly residential. Approximately 400 metres from the appeal site is a Local Centre on Finstock Avenue, a mixed use development which includes a number of purpose built retail units. Within a similar distance to the north of the appeal site is a Neighbourhood Centre on Blurton Road. The proposed extension would accommodate a hot food takeaway of around 33 sqm of floorspace.
4. The National Planning Policy Framework (the Framework) applies two tests for uses which are not in existing town centres and are not in accordance with an up-to-date Local Plan, the sequential test and the impact test. As the Planning Practice Guidance (PPG) on *Ensuring the vitality of town centres* puts it, these tests seek to deliver the Government's "town centre first" policy¹. The PPG also reiterates what the sequential test is and explains how it should be used in decision-taking².

¹ ID 2b-012-20140306

² ID 2b-008-20140306 & ID 2b-010-20140306

5. The Council raised no objection to the impact of the development on the Neighbourhood Centre on Blurton Road but raised concern that the proposal would be harmful to the vitality and viability of the Local Centre of Finstock Avenue. The sequential test in support of the proposal identifies that there are no suitable premises within this Local Centre. This is supported by my observations on site that revealed that all units were occupied. The evidence before me also points to the Council being satisfied that the sequential test is both proportionate and appropriate for the proposed development and there is no dispute between parties that the sequential test has not been complied with. In the absence of any evidence to the contrary, I find no reason to come to a different view and therefore I am satisfied that the sequential test has been met.
6. Paragraph 26 of the Framework sets out the requirements for an impact assessment for development that is over a locally set floorspace threshold, or a default threshold of 2,500 sqm. In the absence of a locally set floorspace threshold, the proposed development would be below 2,500 sqm and therefore does not require an impact assessment. However, as set out within the PPG, this does not guarantee that permission is granted. Other material considerations should be considered before reaching a decision.
7. The Framework does not preclude all development outside of town and edge of centre locations but seeks to ensure that proposals do not have a significant adverse impact. The Retail Study³ notes that the Local Centre on Finstock Avenue has been subject to recent investment and recommends its continued designation as a Local Centre. The mixed use Local Centre has around 8 commercial units. The takeaway would be located next to the existing convenience store on Beaconsfield Drive. Whilst I appreciate that this would reinforce the commercial offer within the vicinity of the appeal site, the combined takeaway and convenience store would not attract a footfall that would unduly compete with the number and variety of facilities within the Local Centre. Indeed, it was apparent from my observations on site that the convenience store currently succeeds in tandem with those within the Local Centre and the proposed takeaway would not be of a size to upset this equilibrium.
8. Where out of centre sites are concerned, paragraph 24 of the Framework states that *preference should be given to accessible sites that are well connected to the town centre*. In the absence of details regarding accessibility, I note from my observations on site that the takeaway would be within a residential area served well by public footpaths and would benefit from an existing pedestrian forecourt and car park. No objections were made by the Council's Highways Officer and together with the site's location within a residential area and the parking and pedestrian facilities available, the development would be within an accessible location that would not result in significant transport impacts.
9. The Council is concerned that approval of the proposed development would make it difficult to resist three further retail units that have been suggested through pre-application discussions with the Council. I have found that the current proposal would not be harmful to the vitality and viability of the Local Centre. Any subsequent proposals for retail units would need to be appraised

³ City of Stoke-on-Trent Council, Retail and Leisure Study (Final Report) March 2014

in the same manner and on their own merits. For this reason I attach little weight to precedent in this case.

10. In all, therefore, whilst the proposal would be outside the hierarchy of centres promoted by the Council, I have found that, for the reasons given, the proposal would not have a significant adverse effect on the vitality and viability of the Local Centre on Finstock Avenue. As such the proposal would comply with the Framework which requires out of centre proposals to comply with the sequential test and any assessment of impact before being considered acceptable.

Conditions

11. The Council has suggested a number of planning conditions which I have considered against the advice in the PPG and the Town and Country Planning (Development Management Procedure) (England) Order 2015. As a result I have amended some of them for clarity.
12. In addition to the standard time limitation for commencement, I have imposed a condition specifying the relevant drawings as this provides certainty.
13. In the interests of safeguarding the character and appearance of the area, I have imposed a condition with regards to matching materials. It is also necessary to impose conditions with regards to mechanical fume extraction and the minimisation of noise and hours of operation to safeguard the living conditions of local residents nearby. The appellant has requested that the premises remain open until 22:30 as opposed to 22:00 as recommended by the Council. It is reasonable for a takeaway facility to serve customers into late evening and allowing the premises to be open until 22:30 would not cause undue harm to the living conditions of nearby residents through possible noise and disturbance. In this instance, therefore, the later opening hours are reasonable.

Conclusion

14. For the reasons set out above, I conclude that the proposed development would not be contrary to the Framework and therefore the appeal is allowed.

R Walmsley

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans; Site Plan, Drg no 1530/03; Scheme Layout Plan, Drg no 1530/02.
- 3) The facing materials to be used in the construction of the development shall match those on the adjoining building, unless otherwise agreed in writing by the local planning authority.
- 4) Before the use takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance an extraction ventilation system that shall have first been submitted to and approved in writing by the local planning authority. All equipment installed as part of the extraction ventilation system shall thereafter be operated and maintained in accordance with the manufacturer's instructions and retained for as long as the use continues.
- 5) The extraction ventilation system details referred to in condition 3 shall be installed in a way which will minimise the transmission of noise in accordance with a scheme that shall have first been submitted to and approved in writing by the local planning authority. The scheme shall be installed as approved and retained for as long as the use continues.
- 6) The use shall only take place between 07:00 and 22:30 on any day.