The Planning Inspectorate

Appeal Decision

Site visit made on 23 July 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

Appeal Ref: APP/D3315/W/19/3224972
Sainsbury's Supermarket, Hankridge Farm Retail Park, Hankridge Way, Taunton TA1 2LR

- 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 Sainsbury's Supermarkets Ltd against the decision of Somerset West and Taunton Council.
- The application Ref 48/18/0040, dated 6 July 2018, was refused by notice dated 14 January 2019.
- The development proposed is described as proposed Timpson concession pod and associated adverts.

Decision

1. The appeal is allowed and planning permission is granted for proposed Timpson concession pod at Sainsbury's Supermarket, Hankridge Farm Retail Park, Hankridge Way, Taunton TA1 2LR in accordance with the terms of the application, Ref 48/18/0040, dated 6 July 2018, subject to the following conditions:

    1) The development hereby permitted shall begin not later than three years from the date of this permission.

    2) The development hereby permitted shall be carried out in accordance with the following approved plans: CHQ.17.12196-PL01, CHQ.17.12196-PL02, CHQ.17.12196-PL03, CHQ.17.12196-PL04, CHQ.17.12196-PL05, CHQ.17.12196-PL06 and CHQ.17.12196-PL07.

    3) The pod hereby permitted shall not be used for purposes other than dry cleaning, key cutting, watch repair, engraving and shoe repair services.

Procedural Matters

2. On 1 April 2019, Taunton Deane Borough Council merged with West Somerset District Council to become a Unitary Authority, Somerset West and Taunton Council. Until such time as they are revoked or replaced, the development plans for the merged local planning authorities remain in place for the area within the unitary authority which they relate to. It is therefore necessary to determine this appeal with reference to the plans produced by the now dissolved borough council.

3. The original application to the Council proposed the installation of advertisements as well as the concession pod. However, the Council's Decision Notice Ref 48/18/0040 relates to the concession pod only and Part E of the appeal form describes the development as proposed Timpson concession pod. Accordingly, I have removed reference to the advertisements in the description of development and have dealt with the appeal on this basis.

4. The National Planning Policy Framework (the Framework) was revised in February 2019. However, as the Framework's policies that are most relevant to this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issue

5. The main issue is the effect of the development on the vitality and viability of Taunton town centre, with particular regard to the sequential test.

Reasons

6. Situated outside the front entrance of a Sainsbury's store, the development would create a retail unit providing a main town centre use with an internal floor area of approximately 14.6 square metres. The appeal site is located in an out of centre location.

7. To protect the vitality and viability of town centres, Policies CP3 of the Adopted Taunton Deane Core Strategy 2011 - 2028 (CS) and TC5 of the Taunton Deane Adopted Site Allocations and Development Management Plan (SADMP) and the Framework require proposals for main town centre uses in out of centre locations to be assessed sequentially. In relation to the sequential test, paragraph 87 of the Framework advises that, amongst other aspects, applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored. Planning Practice Guidance (PPG) indicates that the application of the test should be proportionate and appropriate for the given proposal and that flexibility should be demonstrated in considering the suitability of more central sites to accommodate the proposal and in relation to its format and/or scale.[1]

8. The Council identified several sites in Taunton town centre which the appellant's original sequential test did not include but which are considered by the Council to be a suitable scale and format for the proposal. This is based on the Council's position that commercial considerations should not override planning policy, and appeal decision Ref APP/D3315/Q/11/2151808 was submitted as supporting the Council's position that additional sites within the town centre should have been included in the sequential test.

9. Describing the concession pod as being an ancillary facility for a food store, the appellant focused their original sequential test on sites adjacent to food stores. However, the appellant's appeal statement incorporated the Council's list of sites, which included units not associated with a foodstore, in an updated sequential test. Two other town centre sites, identified by the appellant as becoming vacant since the Council's decision and being potentially suitable with regard to a flexible approach to format and scale, were also considered.

10. Incorporating flexibility, the appellant's updated sequential test considered units with a larger floor area than the proposed concession pod and sites which are not only attached to or associated with a large food store. Proportionate and appropriate for the proposal, the updated test identifies that, irrespective of their proximity to a foodstore, the additional sites are either not available, not available within a reasonable period or are not suitable due to their scale. The Council has not alleged that any of the sites covered in the appellant's original and updated sequential test are available or suitable. Accordingly, the evidence before me indicates that there are no suitable sequentially preferable locations. On this basis, the PPG advises that the sequential test is passed.

[1] PPG, Paragraph: 011 Reference ID: 2b-011-20190722 Revision date: 22 07 2019.

11. The size of the development means that an impact assessment is not required. Given its limited floor area, the concession pod would provide an ancillary facility to customers visiting Sainsbury's and the retail park as opposed to being a destination in its own right. The proposed end user, Timpson, has also indicated that it intends to keep its high-street format store in Taunton town centre as well as operate the concession pod at the appeal site, but does not want another store within the town centre. I did not observe a significant number of vacant units in the town centre on my site visit and the evidence before me does not indicate otherwise. I also have little substantive evidence that the development would impact on investment within a centre and would not be accessible by public transport, cycling or pedestrians. The development would therefore not have a significant effect on the vitality, viability and diversity of Taunton town centre, nor would it undermine the Council's adopted development plan policies or the Council's policy of safeguarding the vitality and viability of Taunton town centre.

12. For the above reasons, I conclude that the development would not harm the vitality and viability of Taunton town centre, with particular regard to the sequential test. I therefore find that the proposal accords with CS Policy CP3 and SADMP Policy TC5. Amongst other aspects, these: promote and enhance town and other centres as the primary location for main town centre uses, require the sequential test and impact assessment for relevant development, and seek to ensure that out-of-centre proposals would not have significant adverse impacts on the vitality, viability and diversity of town and other centres, would not impact on investment in a centre and are accessible. The proposal would also be consistent with the provisions in the Framework in relation to ensuring the vitality of town centres and its three sustainable development objectives.

Other matters

13. The Council has referred to other decisions and its consistency of approach for similar out-of-town development. However, I am unable to draw a comparison to the appeal proposal because the details of those developments and Council decisions are not before me. In any event, each case must be determined on its own merits and I have found in this instance that there are no sequentially preferable sites for the appeal proposal.

Conclusion and conditions

14. I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. However, I have not included the plan SSP3-6.65m because this plan relates to advertisements. I have also imposed a condition, suggested by the appellant, restricting the activity that can take place within the pod. This condition is necessary in order to ensure that the pod is used for the retail activity purposes applied for and in order to safeguard the vitality and viability of the town centre.

15. For the above reasons, the appeal is allowed.

Tobias Gethin

INSPECTOR