



Appeal Decision

Site visit made on 9 October 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Appeal Ref: APP/A4520/W/19/3228517

Vacant former Suzuki Garage, Station Approach, East Boldon NE36 0AB

- 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 Miss Georgia Cotton against the decision of South Tyneside Metropolitan Borough Council.
 - The application Ref ST/0108/19/FUL, dated 8 February 2019, was refused by notice dated 5 April 2019.
 - The development proposed is: Mixed use comprising hairdressers and beauty salon (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for mixed use comprising hairdressers and beauty salon (Sui Generis) at vacant former Suzuki Garage, Station Approach, East Boldon NE36 0AB, in accordance with the terms of the application Ref ST/0108/19/FUL, dated 8 February 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this permission.
 - 2) The development hereby permitted shall be completed in accordance with the following approved plans:

Site Location Plan 3345/00B May 2018; Existing Site Layout Plan 3345/01 May 2018; Existing Plans, Elevations and Roof Plan 3345/02 May 2018; Proposed Plans, Elevations and Roof Plan 3345/04 May 2018
 - 3) The vehicular access and parking as shown on the proposed site plan layout 3345/03B May 2018 shall be maintained for the use of staff and clients of the approved use for the lifetime of the development.
 - 4) Prior to occupation of the unit, safe pedestrian access shall be formed from Station Road details of which shall be submitted to and approved in writing by the local planning authority and implemented in accordance with the approved plans. The pedestrian access shall thereafter be maintained for the use of staff and clients of the approved use for the lifetime of the development.

Main Issues

2. These are:

- The impact of the proposal on the vitality and viability of town, district and local neighbourhood centres; and
- The effect of the proposal on the supply of employment sites and land.

Procedural Matter

3. As part of the appeal submissions, the appellant has supplied a plan¹ showing how a new pedestrian access to the site from Station Road approach could be provided. The appellant suggests that a planning condition could be attached to any consent requiring the details of such access to be agreed prior to the occupation of the unit. I am satisfied that the plan has been submitted for information and in the absence of further consultation no prejudice is caused to any interested parties, and the principles established in Wheatcroft² are not infringed.

Reasons

4. The proposal is to use vacant car showroom premises as a hairdressers and beauty salon. The premises are located on Station Approach, close to East Boldon Metro/rail line station and also a neighbourhood centre providing shops and other services³. The appeal site is located within the boundary of the defined Predominantly Industrial Area (PIA) as designated in the South Tyneside Local Development Framework Development Management Policies⁴ (the DMP). The Site Specific Allocation Development Plan Document⁵ (SSADPD) defines the boundary of the PIA.
5. The premises are currently accessed via the industrial estate road to the rear, where there is a yard and parking. Although the premises have a frontage onto Station Approach, at the present time there is no direct access from there due to a security fence, although it would be possible to enter on foot via an entrance to an adjoining unit to the east. Between the front of the premises and Station Approach there is a lane and bridleway which is partly used for commuter parking.
6. The site is not within any of the defined main town centres in the Borough. The National Planning Policy Framework (the Framework) provides a definition of main town centre uses⁶. Although hairdressers and beauty salons are not mentioned, a hairdresser is included within the A1 'shops' use class and therefore falls under the definition as a Main Town Centre Use. Other beauty care related services as described in the application may not be identified as retail uses and overall the application is described as sui generis use⁷. The parties do not disagree that the proposal constitutes a main town centre use and I shall proceed on that basis.

¹ Drawing no IL60132-001 Dated 18.07.19

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

³ The parties agree that although a designated local neighbourhood centre, in view of the range of services it may now be regarded as being a local centre.

⁴ Adopted December 2011

⁵ Adopted April 2012

⁶ Annex 2 Glossary

⁷ In a class on its own.

Vitality and viability

7. In terms of location the site has been considered not to be edge of centre with regard to the East Boldon local neighbourhood centre in two previous appeal decisions and that remains the Council's view. Whether the site is edge of centre or not is relevant to the way in which the Framework is applied, since the clear preference where main town centre uses cannot be accommodated within a centre is for an edge of centre location. On my site visit I saw that if providing a pedestrian access were to be feasible from the site onto Station Road approach, the East Boldon local neighbourhood centre at a distance of around 150m – 200m could be accessed in around 1-2 minutes, either across the railway crossing or via the subway. Accordingly, in my judgement the site falls within the definition of an edge of centre location.
8. My view is based on the definition of edge of centre contained in the Framework⁸ which refers to, for retail purposes, a location that is well connected to and up to 300m from a primary shopping area, or for all other main town centre uses, a location with 300m. I have also considered the possibility that clients of the proposed hairdresser/beauty salon use could make linked trips to the shops and other service within the local neighbourhood centre. Based on my observations there would be a high likelihood that some clients would make such linked trips.
9. Whether or not the parade of shops at East Boldon should be considered to be a primary shopping area depends on its position within the retail hierarchy. In this respect I note that the Council has acknowledged that whilst East Boldon is currently designated as a Local Neighbourhood Centre, the facilities available are such that it can be considered to function as a Local Centre⁹. The Framework definition of edge of centre is a defined area where retail development is concentrated, and I note that there are a number of shops within the parade. Given the location of the site close to a Metro Station and bus route, it must also be regarded as well connected.
10. My conclusion in this regard is different from the Inspectors who determined the previous planning appeals¹⁰ who took the contrary view that the site is off centre in relation to proposals for A1 retail use. In the case of the first appeal decision, which dates from 2011, the Inspector considered the question of whether the site would be edge of centre on the basis that East Boldon was an 'other centre', commenting that for such a size of centre the edge of centre concept had limited compass. He also considered the matter against DCLG practice guidance on need, impact and the sequential approach. Therefore, the Inspector reached his view in a rather different policy context to that which applies now. I must reach my decision in light of the Framework, as described above, and on that basis and taking into account the local circumstances in this case I have found the site to be edge of centre.
11. The second appeal decision dates from March 2016. In that decision the Inspector did not reach definitive view in relation to the question of whether the site was edge of centre. He acknowledged the finding of the earlier Inspector and noted that the point was not critical to his decision.

⁸ Annex 2 Glossary

⁹ Delegated Report – page 10/11

¹⁰ APP/A4520/C15/3130716 dated 16 March 2016 and APP/A4520/A/11/2153495 dated 1 December 2011

12. The appellant has undertaken a sequential test exercise to determine the availability of suitable premises to accommodate the proposal within the district, local and local neighbourhood centres within the East Boldon/Cleadon/Boldon area. The furthest centre assessed was Hedworth Lane, 3km to the west. The exercise has not identified suitable and available premises, although in one case, a former social club was identified as a building which would be of sufficient size. However, it was on an edge of centre site and is subject to planning permission for residential development; so is not therefore available unless the permission is not implemented.
13. There are two main considerations regarding the sequential test undertaken by the appellant. Firstly, whether the sequential test has considered all the centres covered within the primary catchment area (PCA); and secondly whether the appellant's requirement for a unit of at least 300m² is supported by credible evidence, and whether sufficient flexibility has been shown on the format of the business.
14. The proposed use would serve an existing client base in the Boldon and Cleadon Areas, the applicant currently operating her business on a mobile basis. The clients of the existing business are mainly based in the local area and would be unlikely to want to travel the longer distances to premises within the main town centres of Jarrow, Hebburn and South Shields, or for that matter Sunderland, outside of the Borough. I find this argument convincing and it supports the appellant's approach to the sequential assessment.
15. The local centres of Harton Nook and Boldon Lane are not within the PCA used for the sequential test despite being a similar distance from some of the other centres which have been assessed. Harton Nook and Boldon Lane are located to the north of the PCA, look more towards the main centres of South Shields and Jarrow and would not relate well to a business with a customer base in Boldon and Cleadon. The absence of local and district centres within north Sunderland is also referred to in the Council's reasons for refusal. I also take the view that the centres in that area would be unlikely to provide an appropriate location to serve the Boldon and Cleadon customer base of the business.
16. There is evidence available to the Council on the levels of vacancies within the town and district centres within the Borough. It is suggested that there may be some vacant units which could accommodate hairdressers and beauty salon uses, although the Council does not say that any of these units are of the size sought by the appellant.
17. The degree of flexibility of format in relation to the adequacy of sequential test is also a consideration. The appeal premises have a floorspace of 365m² and the sequential test adopts a minimum size of 300m². It is suggested that the size of unit has limited the number of properties that could potentially be suitable within any of the centres assessed. In effect, could the appellant accommodate the business within a number of smaller units, potentially changing the conclusion of the sequential test that there are no sites available within the centres in the PCA? However, the subdivision of the business into a number of smaller units would run counter to the spirit of the proposal to deliver a 'one stop shop' approach. A combined hairdressers and beauty salon is not an uncommon form of business model and I do not find it to be unreasonable to want to deliver such a business.

18. The Council refers me to a High Court Judgment in support of its stance that the sequential test did not reflect enough flexibility in the scale or format of the proposal¹¹. The circumstances in that case were somewhat different from the proposal in this appeal and do not persuade me that the minimum size requirement and the 'one stop shop' format used in the sequential test represents an inflexible approach.
19. The Planning Practice Guidance advises that in determining whether a proposal complies with the sequential test, consideration should be given to whether there is scope for flexibility or the scale of the proposal¹². In the case of the proposal, some limited flexibility has been incorporated however the requirement that a unit should be at least 300m² in order to be suitable for the needs of the business has limited the type of units that would be large enough to accommodate the use. However, the appellant has supplied some further description of the business and a list of the services which would be provided at the appeal premises and says that these are essential components of the property¹³. In light of this further information I am not persuaded by the argument that the proposal could be incorporated in a different format or size of unit.
20. I therefore consider the sequential test undertaken to be appropriate to the proposed use, its location and relationship to the existing centres within the PCA. I have also considered whether the proposal would be likely to have an adverse effect on the vitality and viability of the main town centres.
21. Given the scale of the proposal the appellant has not attempted a detailed assessment of where the proposed use may draw new trade from. Some information was supplied to the Council prior to the determinisation of the application¹⁴ reiterating points regarding the existing nature of the business and stating that the defined centres within the PCA area all performing well. The size of the premises, the numbers of staff who would work there¹⁵, and propensity for much of the trade to be existing and locally based, are relevant to whether there would be a significant impact of the vitality or viability of the town centres, district, local or local neighbourhood centres within the Borough as a result of the proposal.
22. The Council and the appellant disagree on the interpretation of the Framework paragraph 90 and the use of the term significant adverse impact. A full impact assessment is not, under paragraph 89, a requirement in this case given the default floorspace of 2500m² for such assessment. It is suggested that Policy SA5 of the SSAPDP, although not a policy referred to in the reason for refusal, lacks some consistency with the Framework due to the absence of the word 'significant' in respect of impact. The Council's response on this point appears to be incomplete¹⁶ however it seems to place emphasis on the requirement under paragraph 90 to satisfy the requirement for sequential testing.
23. However, if the proposal has satisfied the sequential test, as is the case here, under the Framework it should not be necessary consider the matter of

¹¹ Aldergate Properties [2016] EWHC 1670

¹² Planning Practice Guidance Paragraph 011 Reference ID:2b-011-20190722

¹³ Appellant's letter to Chris Stanworth, South Tyneside Council, dated 1 April 2019

¹⁴ Ibid – letter dated 1 April 2019

¹⁵ No exact figure has been provided however the Council refers to a previous application where figure of 15 staff was cited.

¹⁶ Council Response to Appellant Statement paragraph 1.9

significant adverse impact as the proposal falls well below the threshold for such assessment in paragraph 89, and there being no locally set threshold.

24. Given the nature of the existing business and customer base and having regard to the effects of the proposal on the vitality and viability of the existing centres within the PCA, I am satisfied that there would be a low level of effect, if any, on the vitality or viability of other centres.
25. I therefore conclude on this main issue that the impact of the proposal on the vitality and viability of town, district and local neighbourhood centres the proposal would not cause harm to the vitality and viability of the hierarchy of shopping centres and would therefore comply with South Tyneside Local Development Framework Core Strategy¹⁷ (the CS) Policies ST1, SC1 and SC2 and the SSADPD Policy SA5, which seek, amongst other things, to promote development that will support main town centres, revitalise shopping centres and development within other local neighbourhood centres where that will not impact on main town centres, and also the Framework which requires that developments which are not within town centres should be subject to a sequential test, and where edge of centre sites are considered, preference should be given to accessible, well connected locations.

Supply of employment land

26. The premises are located within the Cleadon Lane Industrial Area (CLIA), allocated as a Predominantly Industrial Area. Policy DM2 of the DMP seeks to protect such areas from redevelopment for alternative uses, in order assist the supply of employment land. The policy acknowledges that proposals for non-employment uses of sites or premises may be allowed where it can be demonstrated that employment use is no longer viable; and the site or premises do not make a significant contribution to employment land supply¹⁸; or the proposal provides long term benefits that outweigh the loss of employment land.
27. The appellant engaged a commercial agent to undertake a marketing exercise, carried out between December 2017 and February 2017, during which time a number of viewings were carried out with interested parties. No interest was shown by car dealerships, and although there were 6 offer proposals, these were from retail and leisure operators. No enquiries were received from industrial operators.
28. Whilst the marketing exercise did not target B1 uses, it is clear that interest was received from other non B2 or B8 uses, gym operators being one example. The appellant has supplied a breakdown of the enquiries that were received, none of which were from B1 type uses. I have no good reason to consider that were there any prospective B1 users looking for premises in the area they would not have been aware of the availability of the site.
29. The site was also marketed by the previous owner and a letter has been supplied by the agents acting at the time which suggests that the exercise was undertaken since 2009, with no interest other than the sale to the current owner, since when the same agent has continued to target potential occupiers on an off market basis but without success. The existing premises were built for car showroom purposes and may not easily suit all forms of industrial use.

¹⁷ Adopted June 2007

¹⁸ Specifically as set out in the Regional Spatial Strategy, no longer extant.

30. I find the available evidence that the site has marketed for an extended period of time but without success credible, in that regard the first exception under Policy DM2 of the DMP is met.
31. The second exception to the presumption against non-employment uses within PIAs under Policy DM2 relates to the contribution that the site makes to employment land supply. The appeal site and premises are a small part of the CLIA, the whole of which has been reviewed as part of the Council's Employment Land Review 2014 Update (ELR2014). The ELR2014 assessed that part of the CLIA west of Station Approach as around 9.1ha, of which the appeal site is a small part. The review found that compared with other industrial estates in the Borough, the CLIA ranks poorly, is relatively remote from the strategic road network and presents a poor quality environment. Although the review recommended that the estate remains a PIA, it also suggested that the option of redevelopment for alternative uses should be kept open, and that the broader mix of uses on the parts of the estate that front Station Approach should be allowed to continue. I am mindful that as a former car showroom the premises were not in a traditional B1/B2/B8 Use.
32. The Council's reason for refusal state that the Draft Employment Land Review (2018) demonstrates that there is demand for employment land within the Boldon Area. Whilst that may be the case, the lack of success by the appellant in marketing the site for industrial use, together with the comments made in ELR2014, support a view that the appeal site is not attractive for such development and therefore unlikely to help satisfy the suggested identified demand.
33. The South Tyneside Local Plan Pre-Publication Draft August 2019 proposes that the CLIA be identified as a mixed use regeneration site suitable for 245 houses and 2.1 ha of employment land – Class B1 and B8. Given the stage in the preparation of the plan, I attach little weight to the proposed reallocation of the site. However, in combination with the ELR2014, the suggested direction of travel provides support to the contention that the site and premises do not currently make a significant contribution to the supply of employment land and therefore some flexibility should be allowed, applying the exceptions under Policy DM2.
34. The third exception under Policy DM2 considers whether any long term benefits would outweigh the loss of employment land. The proposal would support an existing business and provide employment, although from the application and the appeal documents the number of persons that would be based at the premises is not confirmed¹⁹.
35. There would be some benefits to the local area through the bringing back into use of currently vacant premises close to a local shopping parade, where there would be some potential for linked trips. I do not find alone that these benefits would support an exception to the loss of employment space, however they add some weight to the previous point on the poor viability of the site for continued employment use and very limited effect on the supply of employment land.

¹⁹ Although in a previous application a figure of 15 staff was cited

36. Class A1 retailing is a use which the Council is seeking to limit within the PIAs. However, the proposal is for a mixed use and a change to Class A1 retail would require a further grant of planning permission.
37. I therefore conclude that on this main issue of the effect of the proposal on the supply of employment sites and land the proposal would comply with CS Policy E1 which seeks to safeguard viable employment sites, and DMP Policy DM2, which allows proposals for non-employment uses in PIAs where it is demonstrated that the employment use is no longer viable and the premises do not make a significant contribution to employment land supply. The proposal would also not conflict with the Framework which seeks to create conditions in which businesses can expand and adapt.

Other Matters

38. A number of parties who expressed views on the proposal have commented that there are already sufficient hairdressers and salons within the area, and some express concern that the proposal may lead to commercial pressure on some businesses due to increased competition. Leaving aside the point that the proposal is essentially a bringing together of an existing business in one location, the PPG is clear that the effect of a development on private interests are not normally a material consideration²⁰.
39. Other concerns relate to parking problems in the area. Some respondents to the proposal consider that the site should be used for car parking, however, this is not a matter within the scope of this appeal. The premises have 14 parking spaces to the rear, accessed via the industrial estate road and there is no substantive evidence to conclude that the proposal would add to any existing problems.
40. The East Boldon Neighbourhood Forum has suggested that if the site is no longer required for employment use, it should be allocated in the emerging plan for housing. They also suggest that if the proposal is approved, a potential brownfield housing site would be lost, increasing the pressure for development in the Green Belt. Although the site is now part of a proposed allocation for residential and B1/B8 uses in the emerging plan, the proposal must be assessed against policies in the currently adopted development plan which do not reserve the site for residential use.
41. The appellant has submitted a plan showing how pedestrian access could be created from Station Approach to the front door of the premises. The Council states that it would oppose such an access on highway safety grounds, and considers that any access, either vehicular or pedestrian must be taken via the industrial estate, and suggests a planning condition to that effect.
42. I do not agree with the Council's stance that no pedestrian access from Station Approach should be allowed. The premises have an existing front entrance which can already be accessed from Station Approach through the neighbouring site. The parking on Station Approach is controlled via double yellow lines plus there are some on street spaces with a waiting restriction. The site is close to a Metro Station where there is competition for daytime parking, however I see no reason why staff or clients of the proposal arriving by car would not use the car park to the rear, if the appeal were allowed with a

²⁰ Planning Practice Guidance Paragraph 008 Reference ID: 21b-008-20140306

condition permitting pedestrian access from Station Approach. It also seems unlikely that prospective users of the premises would be content to have no access at via the front entrance to the building and as such a condition requiring this would be unreasonable.

Conditions

43. I have considered the conditions suggested by the Council in relation to the tests of the Framework and advice provided by the PPG. For certainty I attach the standard planning conditions for implementation and approved plans. In order to ensure that adequate provision is retained for parking, I have included a suitable condition.
44. I do not agree with the Council's suggested condition restricting pedestrian access to the front of the building. For the reasoning set out earlier pedestrian access from Station Approach is desirable and should be secured through an appropriate condition. I therefore attach a condition requiring details of such a safe access to be submitted to and approved by the Council prior to the occupation of the building²¹.

Conclusion

45. For the above reasons and taking account of other matters raised, the appeal is allowed.

Tim Wheeler

INSPECTOR

²¹ The appellant agrees to such a condition in Final Comments dated 23 July 2019 paragraph 3.3.