



Appeal Decision

Site visit made on 13 May 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2020

Appeal Ref: APP/H0724/W/20/3246860

16 Sydenham Road, Hartlepool TS25 1QB

- 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 Malik against the decision of Hartlepool Borough Council.
 - The application Ref H/2019/0419, dated 16 September 2019, was refused by notice dated 14 November 2019.
 - The development proposed is Change of use from A1 to A5 use for a ground floor unit.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed change of use on:
 - The vitality and viability of the Local Centre; and
 - The health and well-being of local residents.

Reasons

Vitality and viability

3. Facing onto Sydenham Road, the appeal site is one of five ground floor commercial units within a parade of shops in the Brenda Road/Sydenham Road local centre (LC) of the Headland and Harbour ward. The appeal premises is a vacant unit at the end of the parade beside two hot food takeaways (HFT) side by side, an A1 unit and a welfare office at the far end of the parade, with residential use above these premises.
4. Policy RC16 of the Hartlepool Local Planning Framework Hartlepool Local Plan (May 2018) (HLP) relates specifically to LCs, seeking broadly to diversify, support and protect them. It identifies them as sequentially preferable locations for a range of uses below 300m², including retail (A1), financial and professional services (A2), and hot food take-aways (A5). Policy RC16 also clarifies that applications for HFT A5 uses will be determined in accordance with Policy RC18 and that those identified uses will only be permitted where they do not adversely affect, in particular, the character and function of the property and the surrounding area.
5. Policy RC18 specifically relates to hot food takeaways. This policy states that within the Brenda Road/Sydenham Road LC, the amount of A5 floorspace

should not exceed 4%. The Council has confirmed that the number of A5 uses within this LC, as of 2019, amounted to approximately 6.5% of the centre's total floorspace thereby breaching the A5 threshold of Policy RC18. An additional A5 floorspace would increase the centre's total floorspace to approximately 9.94%. This would have the resultant effect of more than doubling the threshold set at RC18 levels.

6. In addition to the above, the proposed HFT would be directly adjacent to the other two HFT's within the parade, and as such would constitute a significant proportion of A5 uses within this short parade of five units, therefore resulting in an over concentration of the provision of HFT's both within this parade, but also within the LC as a whole. A concentration of such uses would negatively impact on the vitality and viability of the retail and commercial centres.
7. For these reasons, I conclude that the proposal would be harmful to the vitality and viability of the centre's retail character and function overall. It would therefore be contrary to Policies RC16 and RC18 of the HLP which seeks, amongst other matters, to protect the vitality and viability of retail centres, having regard to the service these centres can provide to local communities.

Health and Well-being

8. The supporting text to Policy RC18 of the HLP advises that in order to consider the health impact of development, one of the factors used to set the A5 floorspace thresholds for particular LCs was ward level obesity data for adults, childhood obesity data for schools within the Borough, and the proximity of each area to residential properties. It states that an unhealthy diet is a proven causal link for many illnesses.
9. As a consequence, Policy RC18 identifies that one measure to tackle this issue is to control the number of fast-food take-away outlets. Whilst it acknowledges that there are other factors that lead to unhealthy lifestyles, the purpose of the Policy is to avoid a proliferation of hot food takeaways across the Borough.
10. Of particular note is the advice from the Council's Public Health officer. They confirm that within the ward, both reception and Year 6 children are classified as having excess weight and of these, approximately 12.8% and 25.1% respectively are classed as obese. This is higher than the England average. Public Health go on to explain that both childhood and adult excess weight levels/obesity generally within the ward and the wider Hartlepool area are above national averages. These health statistics have not been disputed by the appellant.
11. There is no evidence provided by the appellant to explain their reasoning as to why they consider the menu choice and pricing would deter people from eating their food most days, although I note their aspiration to offer healthy options. However, in any event, there is no mechanism in place within the planning system to control either. I therefore apply limited weight to these arguments.
12. For these reasons, I conclude that the proposal would result in harm to the health of local residents, contrary to Policy RC18 of the HLP (2018). This policy seeks, amongst other matters, to ensure that HFT proposals have regard to the health and well-being of residents. It would further conflict with guidance within the National Planning Policy Framework, including at Paragraph 91, to

achieve healthy, inclusive and safe places that enable and support healthy lifestyles, including access to healthier food.

Other Matters

13. Despite assurances that the food service would be high, and food choice differ from the other local food choice, and whilst opening hours can be conditioned in the interest of living conditions, this and the additional job creation that would be created, does not over-come the harm that would arise to the vitality and viability of the LC and to the health of local residents. I am therefore not persuaded to reach a different view.

Conclusion

14. For these reasons the appeal is dismissed.

Alison Scott

INSPECTOR