
Appeal Decision

Site visit made on 8 September 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2020

Appeal Ref: APP/H4315/W/20/3254770

Wardlesworth Bookshops Ltd, 33 Westfield Street, St Helens WA10 1QA

- 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 Shirmohammad Aghaiepoor against the decision of St. Helens Metropolitan Borough Council.
 - The application Ref P/2019/0787/FUL, dated 22 October 2019, was refused by notice dated 17 December 2019.
 - The development proposed is change of use from existing A1 bookshop to A5 hot food and takeaway.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the Regulations) came into force, amending the Town and Country Planning (Use Classes) Order 1987 (the Use Classes Order). In the interests of natural justice both parties had the opportunity to make representation, of which they did not. However, having regard to regulation 4 of the Regulations, I have considered this appeal on the basis of the use classes specified in the Schedule to the Use Classes Order on 31 August 2020.

Main Issue

3. The main issue is the effect of the proposed development on the area, in regard to the character, appearance, and the vitality and viability of St Helens Town Centre.

Reasons

4. The appeal site comprises of a vacant shop unit along Westfield Street, located within the designated St Helens Town Centre. It occupies a prominent position on the end of a row terraced properties. The proposal would change the use of the appeal site property from a previous bookshop (A1 use) to a hot food takeaway (A5 use) with the upper floor utilised as an office and storage space. The proposal includes a replacement shopfront and entrance.
5. The National Planning Policy Framework, (the Framework) at paragraph 85 states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to

their growth, management and adaption. It requires that planning policies define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses and reflects their distinctive character.

6. Saved Policy RET4 of the St Helens Unitary Development Plan, 2007 (DP) only permits the change of use of establishments to provide hot food for consumption on or off the premises where they meet certain criterion. At (vii) it states, the overall impact of the use on the locality is acceptable, having regard to other uses of like nature in the vicinity. As such, although dated, it is fairly consistent with the approach of the Framework in regard to ensuring the vitality of town centres.
7. The Council's supplementary planning document, Hot Food Takeaways, 2011 (SPD), at paragraph 5.1 sets out that a hot food takeaway will only be granted provided it is located within the defined town centre of St Helens. Therefore, given the location the proposal would conform with this element.
8. However, the SPD sets out that if located within a town centre, district or local centre then it should not result in, (i) more than 5% of the units within the centre or frontage being hot food takeaways; (ii) More than two A5 units being located adjacent to each other; (iii) Any less than two non-A5 units between individual or groups of hot food takeaways; (iv) The proportion of A1 uses in a primary retail frontage falling below 75%.
9. The Council advises, from the retail frontage along Westfield Street there are thirty-two units and 6 units are already operating as A5, with a further unit as a A3/A5, which would equate to some 18.75%. I have no evidence to suggest that the appellant disputes this.
10. Moreover, as I observed at the time of my site visit, the immediate properties within the vicinity of the site along Westfield Street (2 blocks of terraces directly facing each other) included 5 takeaways, offering a mix of takeaway cuisines including pizza, fish & chips, kebabs and fried chicken. There were also public houses, a taxi business and a limited mix of A1 uses. As such, the proposal would add to the overabundance of hot food takeaways, which are already in existence along Westfield Street and it would therefore be at odds with the criteria guidance in the SPD, particularly at (i).
11. The Council have not raised any objections to the replacement shop frontage, being of a traditional design and in keeping with neighbouring commercial properties. However, the large concentration of hot food takeaways along Westfield Street result in significant clusters of these, displacing the other limited retail premises and in my opinion undermining the attractiveness of the town centre. I acknowledge, there would be some economic benefit of bringing the empty unit back into use, albeit limited, however the proposal would negatively add to the cluster and the reuse of the unit does not justify the change of use to an A5 use.
12. Furthermore, I note that the appellant has stated that the hours are unknown. I am therefore, not satisfied that the proposal would not result in a dead frontage during daytime hours, which would be detrimental to the character, appearance of the immediate area and thus impacting on the vitality and viability of the area.

13. For the reasons given above, I conclude that the proposed change of use would cause significant harm to the character, appearance, vitality and viability of St Helens Town Centre. It would be contrary to Policy RET4 of the DP, for the reasons already set out. The proposal would also conflict with the guidance contained in the Hot Food Takeaway SPD. Furthermore, it would also be contrary to the Framework, in regard to chapter 7 and ensuring the vitality of town centres.

Other Matters

14. The Council have not raised any concerns in regard to living conditions, noise and odour. Suitably worded conditions could address these, including the provision of an acceptable fume extraction system. In terms of highway safety and parking, given the town centre location there would be no conflict in this regard. Nonetheless, these are not considerations to overcome the conflict with the development plan and the Framework. As such, they are a neutral factor in the consideration of the proposal.
15. I acknowledge that the appellant wants to provide a 'differentiate' business of providing a range of multicultural foods including Iranian cuisine along Westfield Street and the location would be a significant benefit to him. However, I have not been provided with any substantive evidence on footfall and that there is no demand for their existing business at Baldwin Street. As such, these matters do not outweigh the concerns I have raised above.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR