



Appeal Decision

Site Visit made on 24 August 2021

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2021

Appeal Ref: APP/H0738/W/21/3274534

Former Egglecliffe Library, Butterfield Drive, Eaglescliffe, Stockton on Tees TS16 0EL

- 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 Tony Cuthbert, TC Developments (Commercial) Ltd against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 20/2792/FUL, dated 17 December 2020, was refused by notice dated 23 March 2021.
 - The development proposed is the construction of 2no. retail units (A1).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the planning appeal, the Government published the revised National Planning Policy Framework (the Framework), which came into force on 20 July 2021. The Framework sets out the Government's planning policies for England and how they should be applied. With regards those paragraphs referred to by the main parties paragraphs 85, 86 and 90 are now numbered 86, 87 and 91 but otherwise unaltered.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area and whether or not it has been demonstrated that there are no sequentially preferable sites on which the retail proposal could be accommodated, with regards the sequential test set out in the National Planning Policy Framework and the Planning Practice Guidance.

Reasons

Character and appearance

Policies SD5, SD8 and ENV6 of the Stockton-on-Tees Borough Council Local Plan, adopted 30 January 2019 (the LP), amongst other matters, seeks to protect and enhance open spaces, reinforce local distinctiveness and provide high quality design.

4. The appellant identifies that the appeal site is "predominantly laid to grass, although it also accommodates two benches, a bin, and a single tree" and the Council details that the site is "defines as open space".

5. I saw at the site visit that as a result of the appeal scheme the openness to the front of the existing commercial units would be significantly eroded. Furthermore, it was clear that open space between buildings fronting on to this part of Durham Lane is a positive characteristic of the local area.
6. In acknowledging the loss of open space, the appellant refers to the retention of some space between Durham Lane and the proposed retail units to incorporate new soft landscaping treatments in the form of additional tree, hedgerow and shrub planting, and a footpath that would follow the route of the Yarm branch of the historic Stockton and Darlington Railway Line, an information board is also referred to. These are material considerations that seek to mitigate the loss of open space and in themselves weigh in favour of the proposal, details and provision of such could be controlled by condition.
7. Nonetheless, the significant loss of open space to Durham Lane and the introduction of built development on to a site that is currently open and undeveloped would have a harmful effect on the character and appearance of the area. This loss is not outweighed by the appellant's mitigation measures.
8. To conclude this main issue, I find that for the reasons detailed above, on balance, the appeal scheme would harm the character and appearance of the area contrary to Policies SD5, SD8 and ENV6 of the LP.

Sequential test

9. Policies SD4 and EG3 of the LP and paragraphs 86, 87 and 91 of the National Planning Policy Framework, amongst other matters, set out the principles of the sequential approach of directing Town Centre uses towards suitable and available sites which are located within the Town Centres Hierarchy.
10. It is not at dispute between the parties that the appeal site lies adjacent to but outside the defined boundary of the Orchard Parade Local Centre. As such, in accordance with the policies and paragraphs of the Framework referred to previously, it is necessary to demonstrate that there are no sequentially preferable sites.
11. The appellant's SoC identifies a specific catchment area, and therefore the relevant search area of the sequential test. No suitable alternative sites are identified, though little commentary is provided regarding the nature of the search undertaken or the sources consulted.
12. Furthermore, very limited rationale is provided by the appellant to justify the catchment area for the proposed retail units, other than an unquantified reference to the scale of the proposed retail units. In determining the application the Council referred to Yarm and I have no substantive evidence before me that persuades me that consideration should not be given to a wider search area.
13. Therefore, on the basis of the evidence before me I find that it has not been demonstrated that there are no sequentially preferable sites on which the retail proposal could be accommodated, with regards the sequential test set out in the National Planning Policy Framework. The appeal scheme is therefore contrary to Policies SD4 and EG3 of the LP.

Other Matters

14. The appellant details that the appeal scheme would have a positive impact on vitality and viability of the centre, I note that the appeal scheme would result in additional investment and would lead to the creation of jobs. These are material considerations that weigh in favour of the appeal scheme but do not outweigh the harm I have detailed previously.

Conclusion

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

Mr M Brooker

INSPECTOR