



Appeal Decision

Site visit made on 7 January 2025

by **L Clark BA(HONS) DIPTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th February 2025

Appeal Ref: APP/H0738/W/24/3352275

127 High Street, Stockton-on-Tees TS18 1AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr John Noble of Noble Corp Ltd against the decision of Stockton-on-Tees Borough Council.
- The application Ref is 23/1151/COU.
The development proposed is change of use from Class E (Retail Unit) to Sui Generis (Adult Gaming Centre).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development in the banner heading above is taken from the application form, however, I have removed the superfluous wording 'Listed Building Consent for' to ensure a more concise form of words.
3. The National Planning Policy Framework (the Framework) was revised in December 2024 and minor updates in 2025. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comment.
4. The appellant has drawn my attention to appeal Ref APP/W5780/W/22/3310602, relating to Unit 1, 172-174, High Road, Ilford. However, it is clear from the Decision in Appendix L of the appellant's statement that the reference of this appeal is APP/W5780/W/22/3310682. I have therefore used 3310682 in my assessment.

Main Issues

5. The main issues are:
 - the effect of the proposal on the vitality and viability of Stockton Town Centre (STC);
 - the effect of the proposal on the character and appearance of STC; and,
 - whether or not the proposed development would affect the health and well-being of residents.

Reasons

Vitality and Viability

6. There is no dispute with regard to the loss of the unit impacting the retail function. There is, however, dispute with regard to whether the proposed concentration of Adult Gaming Centres (AGCs) would affect the viability and vitality of STC.

7. Whilst there is no threshold in relevant policy to define an acceptable limit in terms of uses within either the Primary Shopping Area (PSA) or Primary Shopping Frontage (PSF), Policy EG2 of the Stockton-on-Tees Borough Council Local Plan 2019 (Local Plan) does use the term over-concentration of use. Criterion 2, whilst specifically referring to proposals for food and drink and other evening economy uses, expands on the term over-concentration and states it as either being, a proportion of the centre overall, or as a cluster within the centre. In the absence of any formal definition, I have based my assessment on this together with the evidence before me and observations on site.
8. The Planning Practice Guidance recognises that a wide range of complementary uses, if suitably located, can help to support the vitality of town centres. It lists indicators which may be relevant in assessing the health of town centres. Such indicators include the diversity of uses, proportion of vacant street-level property, and opening hours/availability/extent to which there is an evening and night-time economy offer.
9. The appeal site (No 127) comprises a vacant ground-floor unit fronting High Street. It is located with other financial services, AGCs and betting shop premises in its vicinity. Of note, there is an existing AGC, 'Admiral,' directly next door at No125/126, two separate 'Shipley's Slots and Bingo' AGCs at No 113/114 and No 106, and a further 'Admiral slots/gaming casino' at No 100.
10. No 127 is located within the area designated as a PSA, and within the PSF as defined by Policy SD4 of the Local Plan. Policy EG2, Criterion 3, of the Local Plan relates to Managing Centres and specifically STC. Its fundamental aim is to retain and enhance the retail function of the town centre whilst seeking a reduction in the number of vacant ground-floor commercial units and maintaining and enhancing the vitality and viability of the PSA. It also states that, in addition to the criteria above, the vitality and viability of the PSA will be maintained and enhanced by, amongst other matters, through Criterion 3. b. resisting development proposals that would result in a harmful over-concentration of non-retail uses to the detriment of the vitality and viability of the PSA.
11. Notwithstanding the percentage increase of AGCs within the town centre, the proposal would be directly adjacent to an existing AGC which occupies a double fronted premises. Whilst the street is linear, the open aspect towards the front of the premise, and the depth of the public realm allow clear views along a large section of High Street between Dovecot Street and Ramsgate. Beyond Ramsgate, High Street steps forward with the dual frontage of No 106, occupied by 'Shipleys Slots', clearly visible. Figure 7 of the appellant's statement identifies the location of existing and proposed AGCs in relation to High Street, with Figures 3 and 4 displaying existing and proposed retail uses. As outlined above, there is no dispute with regards to the loss of the unit impacting the retail function and, as such, Figures 3 and 4 carry limited weight. Figure 7 is clear, however, that the overall number and position of existing AGCs to No 127 would be clustered towards Dovecot Street, which I consider would constitute a cluster and therefore result in an over-concentration.
12. Whilst modern high streets and town centres provide a wider range of facilities and services, the purpose of Policy EG2 of the Local Plan is to prevent an over-concentration or clustering of non-retail uses. Even if there are several uses within Class E, given the evidence before me, this carries limited weight in my assessment.
13. The appellant has drawn my attention to appeal Ref APP/F5540/W/22/3292704 which relates to an AGC and which they contend is similar to the appeal before me. Whilst

the proposed development is similar, even if the Inspector considered the policy in that case to have reduced weight following the introduction of Class E, I have nothing before me which indicates that the size of Hounslow Town Centre is similar to that of STC. Furthermore, whilst the additional AGC is cited as being a few doors away at 150 High Street, I have nothing before me to demonstrate the distance from the appeal site to ascertain whether the circumstances are similar. In the case before me, the additional AGC is located directly next door and consists of a double-fronted premises. Based on the evidence, this example is not directly comparable and therefore the outcome of this appeal attracts limited weight.

14. In appeal Ref APP/M4510/W/23/3329507, the Inspector is clear that whilst there may be many gambling venues within the city centre and taking into consideration the proximity of the nearby 'Admiral Casino', they did not find these to be prevalent in this particular area. In contrast, the proposed development would be immediately adjacent to an existing AGC and for reasons given above, this case is not directly comparable to the appeal before me.
15. The Inspector is clear in appeal Ref APP/W5780/W/22/3310682, that whilst there are a number of ACG and betting shops within the town centre, they are well separated from the appeal site and not excessive in number. Given I have found the proposed development would result in a clustering of its use, this case is not considered comparable to that before me.
16. The Inspector states, within appeal Ref APP/R5510/W/24/3340769, that the proposed amusement centre would be the second of its kind in the town centre and that the two uses would be physically and visually separated by several units in Class E use. Given the number of AGC's and separation, this case is not considered comparable to that before me.
17. The appellant has also drawn my attention to a number of retail units which they contend demonstrate the lack of demand for retail units in the town centre. Whilst I have seen that some are vacant, with For Sale or Rent boards presented externally, I have nothing to demonstrate that these premises have been marketed for a similar period to No 127. Furthermore, the ground floor of 3-9 Yarm Lane was open and operating as Yarm Lane Café & Deli, and 11 Yarm Lane was operating as The Old Dun Cow public house. I therefore do not consider the vacancy rate to be as high as the appellant contends.
18. My attention has also been drawn to planning application Ref 23/00973/FUL which I am told relates to an extension to an AGC frontage. I have not been provided with the full details of the case to make a full comparison and, in any case, I have determined the appeal on its own merits based on the evidence before me. Moreover, I have very little before me which contextualises the comment made by a local Councillor. As such, I award this limited weight.
19. I acknowledge that No 127 has been vacant for approximately 52 months without attracting a suitable retailer and that during this time it has not contributed towards the activity, vitality or growth of the centre. However, whilst the proposed AGC would bring a vacant unit back into use, would operate during daytime hours and customers may frequent other establishments in the local area, the need for economic growth does not outweigh the harm I have found above.
20. For the reasons given above, I conclude that the proposal would have a harmful effect on the vitality and viability of STC. Accordingly, it would not comply with Policy EG2 of

the Local Plan which seeks, amongst other matters, to resist harmful over-concentration of non-retail uses. There would also be conflict with the requirements of the Framework which seeks to ensure the vitality of town centres.

Character and appearance of Stockton Town Centre

21. Policy SD8 of the Local Plan relates to sustainable design principles and seeks, amongst other matters, for new development to contribute positively to making places better for people, and establish a strong sense of place to create attractive and comfortable places to live, work and visit.
22. I accept that the town centre and consumer habits have changed and continue to do so and that changes to the Town and Country Planning (Use Classes) Order 1987 (as amended) reflect the Government's objective of seeking to allow greater flexibility for units to change use without the need for planning permission. However, the extent of flexibility is still restricted, and those uses that do not fall within those captured by Class E, such as the proposal, still require planning permission. This therefore indicates the Government's intention to retain a suitable balance of uses within the town centre, to maintain, amongst other matters, a town centre character.
23. Even if the proposed AGC would bring a vacant unit back into use, I have found above that the proposed development would result in a clustering effect of AGCs within the STC. It, therefore, follows that an over-concentration of AGCs would negatively impact how STC is experienced and thus affect its character.
24. For the reasons given above, I conclude that the appeal proposal would have a harmful effect on the character and appearance of STC. Conflict therefore arises with Policy SD8 of the Local Plan which seeks, amongst other matters, for new development to contribute positively to making places better for people, be inclusive and establish a strong sense of place, and to create attractive and comfortable places to live, work and visit. There would also be conflict with the requirements of the Framework, which seeks to ensure the vitality of town centres.

Health and Well-being of Residents

25. The Framework seeks to support strong, vibrant and healthy communities and promote healthy and safe places. Public Health contends that STC is the most deprived Ward in Stockton and that the appeal site is close to temporary accommodation (hostels) which provide accommodation to vulnerable people, who may require support. Given the particular characteristics of the town centre, Public Health has objected on the basis that the proposed development would result in a negative impact on the health and well-being of residents within the locality.
26. I acknowledge that the appellant would have a Management Plan in place which would adopt a 'think 25' proof of age strategy, that alcohol would be forbidden on the premises and entry would be refused for anyone who appears intoxicated. However, whilst there was no objection from Cleveland Police, Public Health state that 1 in 7 people in Stockton have a Problem Gambling Severity Index (PGSI) score of 1 or more, equating to 13.7% of the population, which is higher than the 13.4% average across Great Britain (GB). Furthermore, they state that 1 in 17 (6.0%) have a PGSI score of 3+, compared to 5.9% across GB, and 1 in 36 (2.8%) have a score of PGSI 8+, compared to 2.9% across GB. From the evidence before me, Stockton has an above average prevalence for gambling than the rest of GB. As such, this leads me to

believe that the appeal proposal would contribute towards the likelihood of problem gambling which would significantly and disproportionately harm the health of and well-being of citizens within the Ward.

27. The appellant has drawn my attention to appeal Ref APP/R5510/W/24/3340769. In this case, the Inspector states that there was no substantive evidence to demonstrate that the appeal proposal would have adverse impacts with regard to the social impacts of gambling. In contrast, I have been provided with a detailed Public Health profile of Stockton which links high levels of deprivation to gambling. This case is therefore not considered comparable to that before me.
28. For the reasons given above, I conclude that the appeal proposal would have a harmful effect on the health and well-being of residents within the locality. Conflict therefore arises with Policy SD8 of the Local Plan which seeks, amongst other matters, for new development to contribute positively to making places better for people, be inclusive and establish a strong sense of place, and to create attractive and comfortable places to live, work and visit. There would also be conflict with the requirements of the Framework which seeks, amongst other matters, to provide healthy environments and communities.

Other Matters

29. The site is situated within the Stockton Town Centre Conservation Area (CA) and, together with the adjoining properties, are grade II listed buildings. As such, I have a duty under Section S66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, and requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Council do not appear to raise any particular concern in relation to the impact on the character and appearance of the CA or listed buildings. Given the development relates to the change of use only and does not propose any alterations to the exterior of the building, and based on the evidence before me and observations on site, I have no reason to raise concern in this regard.
30. Whilst a gaming licence has been granted for an AGC at No 127, such applications are determined under different legislation to that of planning. Furthermore, even if the opening hours were reduced during the application, this does not outweigh the harm identified above.

Conclusion

31. Given my findings above, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
32. I conclude that the appeal should be dismissed.

L Clark

INSPECTOR