



Appeal Decision

Site visit made on 1 August 2017

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 August 2017

Appeal Ref: APP/H0724/W/17/3170084

406 Catcote Road, Hartlepool, Cleveland TS25 2LS

- 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 Albert Griffiths against the decision of Hartlepool Borough Council.
 - The application Ref H/2016/0453, dated 7 October 2016, was refused by notice dated 16 January 2017.
 - The development proposed is a change of use to hot food takeaway.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use to hot food takeaway at 406 Catcote Road, Hartlepool, Cleveland TS25 2LS in accordance with the terms of the application, Ref H/2016/0453, dated 7 October 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 'CamCube CC (2510), filter hosing for cylindrical carbon filter'; Location Plan at a scale of 1:1250; existing and proposed elevations plan, and proposed side elevation plan; existing and proposed floor plans, and extraction and ventilation technical details.
 - 3) The premises shall only be open for customers between the following hours:

1700 – 2300 Mondays – Fridays
1700 – 2300 Saturdays, Sundays and Bank Holidays

Procedural Matters

2. The Council published the Hartlepool Local Planning Framework: Local Plan Publication Stage: Consultation Document (December 2016) (ELP) in December 2016. However, the ECS is an emerging document which has not yet been subject to an Examination in Public. I am also mindful of paragraph 216 of the National Planning Policy Framework (the Framework) regarding the weight to be given to emerging plans.
3. I acknowledge that one of the aims of ELP policy RC18 is consistent with one of the Framework's core planning principles of taking account of and supporting local strategies to improve health, social and cultural well-being for all. Paragraph 171 of the Framework also refers to local planning authorities

working with public health leads and health organisations to understand and take account of the health status and needs of the local population. However, I am advised that there remains an unresolved objection to the policy that the Council acknowledge goes to the heart of the policy, and that the document as a whole has not been subject to examination in public. This limits the weight that I can give it at this time and I have considered the appeal accordingly.

Main Issue

4. The main issue is the effect of the proposed development upon the health and well-being of local residents.

Reasons

5. Saved policies Com5, Com12 and GEP1 of the Hartlepool Local Plan 2006 (LP) states that proposals for A5 uses (HFTAs) will be approved in local centres where there is no significant adverse effect on the amenities of occupiers of adjoining or neighbouring properties. It goes on to state that proposals will also be approved where the scale, function and character of the area is maintained. Additionally, Com12 also states such uses will be approved where they will not lead to traffic congestion, or otherwise adversely affect highway safety. The Council acknowledge that the proposal would be in accordance with these saved LP policies and, from my observation of the site and its surroundings, and from all that I have read, I see no reason to disagree.
6. However, ELP policy RC18 sets out the Council's proposed approach to hot food takeaway (HFTAs) proposals. This policy states that the Council will seek to protect the vitality and viability of the network of retail and commercial centres within the Borough, protect the residential amenity of nearby residents and that they are 'committed to ensuring that Hartlepool residents have the best possible opportunities to live a healthy lifestyle'. Proposals for HFTAs will therefore be strictly controlled in line with criteria set out in policy RC18 and depending on the locational context in which they are located.
7. The appeal site lies within an existing parade of commercial premises, identified by policy RC18 as the Fens Shops Local Centre (FSLC). Here, ELP policy RC18 states that the amount of Use Class A5 (HFTA) uses within the local centre should not exceed 7% of the total available floorspace within the centre. Although the proposal would result in the amount of A5 floorspace within the local centre rising from 7% to approximately 12%, thereby beyond the threshold proposed by ELP policy RC18, the Council do not object to the effect of the proposal on the vitality or viability, function, character or appearance of the FSLC.
8. The Council is instead concerned that the proposal would introduce an additional HFTA use into the FSLC, within a ward area that has higher than average child and adult obesity levels. As a whole, I am also advised that Hartlepool has a higher than average number of HFTAs and have noted the comments of the Council's Public Health section and the statistics quoted from the National Obesity Observatory, the National Childhood Measurement Programme and ONS Public Health Mortality Files. As a consequence, it is argued, an increase in the amount of A5 floorspace within the Fens and Rossmere ward area could exacerbate childhood obesity levels and mortality rates for the under 75's.

9. However, I have no substantive evidence before me to demonstrate that an additional HFTA unit, and the corresponding increase in A5 floorspace within the FSLC from 7% to approximately 12%, could be directly attributable to any material decline in the health and well-being of local residents. Nor, despite the relatively nearby presence of Fens Primary School, do I have any compelling evidence to suggest that it would encourage unhealthy eating amongst pupils of that nearby school. There may be other schools farther afield but it was not clear from my site visit, nor has it been suggested in submissions, that the FSLC lies on a main transit route towards those schools.
10. It is not a matter of dispute that the general principle of the proposal would accord with saved LP policies Com5, Com12 and GEP1. Whilst the figures regarding obesity and health within the Fens and Rossmere ward, and across the Borough as a whole, are noted there is insufficient evidence before me that would allow me to conclude that the proposal would prejudice the ability of the Borough's residents to live a healthy lifestyle, or would materially harm the health and well-being of the population. I find no conflict with paragraphs 17 or 171 of the Framework in this respect.
11. Although the proposal would increase the amount of A5 floorspace within the FSLC from 7% to approximately 12%, contrary to the provisions of policy RC18 of the ELP, the Council do not object to the proposal in terms of it creating a proliferation of A5 uses and the effect that that could have on the vitality, viability, character or function of the local centre. I have no reason to reach a different conclusion in this respect. However, whilst the proposal would exceed the threshold limit for A5 uses set out in ELP policy RC18, neither the evidence before me nor the weight that I can afford to ELP policy RC18 provides sufficient justification to dismiss the appeal on these grounds.

Other Matters

12. I note that a letter of objection was received citing concerns over competition arising from the proposal. This, however, is not a material consideration to which I can give any weight.

Conditions

13. I have considered the Council's list of suggested conditions in light of the Framework and Planning Practice Guidance. The conditions I shall impose are based upon those suggested by the Council, and upon which the appellant has commented, but I have varied them where necessary in the interests of clarity and precision.
14. In addition therefore to a time limit condition, I agree that conditions specifying the approved plans and the opening hours are necessary in order to provide certainty and to protect the amenity of occupiers of adjoining and nearby properties, respectively.

Conclusion

15. For the reasons set out, and having considered all other matters, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR