



Appeal Decision

Site visit made on 1 November 2011

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 7 November 2011

Appeal Ref: APP/N1350/A/11/2157021

3 - 4 Tubwell Row, Darlington DL1 1NU.

- 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 Done Brothers (Cash Betting) Ltd against the decision of Darlington Borough Council.
 - The application Ref: 11/00269/CU, dated 21 April 2011, was refused by notice dated 29 June 2011.
 - The development proposed is the change of use from A1 retail to licensed betting shop (use class A2).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is the effect of the proposed development on the vitality and viability of Darlington town centre.

Reasons

3. The saved policies of the Borough of Darlington Local Plan which are of relevance are Policies S2 and S4. Policy S2 is a broad policy which seeks to safeguard and enhance the vitality and viability of the town centre. Policy S4 is permissive of A2 uses in secondary shopping frontages, as here, provided that the overall concentration of non-shop uses in a particular length of frontage would not be such as to undermine its character or vitality as a shopping frontage.
4. The appeal premises form a unit of significant size which, although vacant at present, was last used for A1 retail purposes. The frontage within which it lies, whilst designated as secondary frontage, is close to and clearly visible from the nearby primary shopping areas. There is little on the ground to differentiate between the two areas.
5. This particular part of the secondary frontage already contains non A1 uses including amusements, public houses and financial services. As such the run of premises here is already heavily biased towards non retail use whilst maintaining an element retail use. This proposal would, to all intents and purposes, consolidate the frontage between the junction with Prebend Row and the Golden Cock public house as entirely non retail. Yet it is this section of the secondary frontage on Tubwell Row which has the closest relationship with primary shopping in High Row and Prebend Row. The premises are not isolated

from other shops at present, and hence I do not agree that one more non retail use here would make little or no difference. Retail use is still present, and Local Plan policy seeks to retain it.

6. In my judgement the consolidation of the non retail uses would reduce the character and function as a secondary shopping frontage to an unacceptable degree. Though there is no absolute policy preclusion of non A1 uses here, the intention of the policies noted above is clearly to ensure that both primary and secondary shopping areas function as just that – shopping frontages. If this proposal were to be permitted there would be a significant stretch of Tubwell Row without any retail use at all, and a substantial gap between the retail frontages of Prebend Row and those to the east. Not only would that run counter to policy objectives, but also to the aims of the Supplementary Planning Guidance on the introduction of non retail uses in secondary frontages.
7. I note the comments regarding the relocation of the former use, but that is a business choice. It does not necessarily follow that the premises would be unattractive to other retail users. I have nothing before me which indicates that a new retail use would not be viable, nor that the market has been adequately tested. Indeed given the low vacancy rate in the town centre (and hence limited choice) it seems to me that it would be more likely than not that a retailer would be prepared to locate here, especially in view of the close proximity to other shops.
8. I acknowledge that a betting office would attract customers and therefore generate footfall in the street. I also accept that there would be a likelihood of linked trips. But this does not compensate for the loss of a retail unit and subsequent significant reduction in the retail offer on this street in this instance. I note the other appeal decisions submitted, but those clearly reflect different circumstances in different locations. I am therefore satisfied that the balance of evidence before me indicates that the vitality of the secondary frontage here would be reduced and that the vitality and viability of the town centre would therefore be compromised in a small but important way.
9. I am aware that national advice as expressed in Planning Policy Statement 1 – *Delivering Sustainable Development* – encourages development which contributes to sustainable economic development. Likewise, Planning Policy Statement 4 – *Planning for Sustainable Economic Growth* – has similar objectives, and also encourages diversity of uses in town centres. Local Plan policies, though adopted earlier, are not incompatible with these objectives, but provide the framework in which national aims will be realised and the health of the town centre retained.
10. The Ministerial Statement 'Planning for Growth' is material to this proposal, and of some significance. But again there is nothing in local policy which is incompatible with that statement. Encouragement for development in the statement does not suggest that it should be achieved at any cost, and in the face of demonstrable harm. In this case it is my judgement that the economic well being of the town would not be best served by the proposed development. Local policy is also compatible with the draft National Planning Policy Framework, which in any event is at an early stage and can be afforded limited weight.

11. I summarise my findings here. The proposed development would introduce a non A1 retail use into a building with a substantial ground floor presence and this would reduce the retail offer in this secondary frontage. It is my judgement that the proposal would reduce the retail offer to a point where the function of the shopping frontage would be unacceptably compromised, and that this would be harmful to the character and vitality of the frontage, and to the vitality and viability of the town centre as a whole. There is consequent conflict with Local Plan Policy S4. No other considerations have been shown to be sufficient to outweigh the harm and policy conflict identified.

Conclusion

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

Philip Major

INSPECTOR

