



Appeal Decision

Site visit made on 22 January 2018

by **Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th January 2018

Appeal Ref: APP/L3245/W/17/3187620

Cafe and Premises, A5(T) from Baschurch Junction B4397 to Long Oak Junction, Shotatton, Ruyton XI Towns, SY4 1JH

- 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 Sukhjinder Singh against the decision of Shropshire Council.
 - The application Ref 17/02765/FUL, dated 7 June 2017, was refused by notice dated 23 August 2017.
 - The development proposed is to provide new, sustainable premises to the site at Shotatton crossroads with an extension to the existing café building. All to include new landscaping and parking. Existing access to remain.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the need for the proposed development and its impact on the character and appearance of the area.

Reasons

3. The appeal site comprises a highly visible triangular shaped parcel of brownfield land that adjoins an existing bespoke kitchen manufacturer's showroom immediately to the east of the A5/B4397 Shotatton crossroads and in a countryside location. The existing access situated within a 40mph restricted speed area of the A5 serves the kitchen showroom, together with a rather ramshackle structure that houses a small café business and a large car parking area. The parties agree that the site may be classified as previously developed land. The existing kitchen showroom converted for such purposes under the permitted development regime would be unaffected by the proposed development.
4. The proposal would see the incorporation of the existing café structure within an extended built form consisting of a rectangular shaped mono-pitched green roofed and cedar clad structure providing some 210 sqM of floor space. The café would provide some 50 covers together with an additional 33 covers or so in an outdoor seating area, which would also include a small children's play area. In addition, two new buildings of similar design and located immediately to the east are also proposed. The proposed retail showrooms would be of similar design with use of identical external materials, each providing some 300 sqM of floor space.

5. The Council does not appear to be against the café element of the proposed development and I would agree that the refurbishment and extension would represent an overall improvement to the present structure and on-site arrangement. There is a lengthy planning history at the site, including the erection of a hotel. However, it is unclear whether this permission remains extant and whether it is a genuine fall-back position that I should take into account. I am mindful however of the brownfield nature of the appeal site and that it has been the subject of previous consents for a number of commercial uses.

Need for the retail development

6. The formal development plan includes the Shropshire Core Strategy (CS) adopted in February 2011 and the Site Allocations and Management of Development Document (SAMDev) adopted in December 2015. Policies CS1 and CS3 aim to support the revitalisation of Shropshire's market towns, including Oswestry and to develop their roles as key centres. Policy CS15 encourages the provision of appropriate convenience and comparison retail, office and other town centre uses preferably within identified town centre locations on the basis of a 'town centres first' approach while recognising the National Planning Policy Framework's (the 'Framework') policy that local planning authorities should apply a sequential approach to the consideration of planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date local plan.
7. There is little doubt that the proposal is not one that can reasonably be described as small scale rural development in the meaning set out in policy CS5 and to which the sequential test should not be applied. The sequential approach requires applications for main town centre uses to be located in town centres, then in edge of centre locations. Only if suitable sites are not available should out of centre sites be considered.
8. The appellant readily acknowledges that a sequential assessment has not been undertaken and had one been formalised, it is highly likely that sites suitable for the intended use would have been identified in the nearest market town of Oswestry, which is approximately 9km to the north west. Whilst I accept that the proposed development would complement the existing bespoke furniture and kitchen manufacturer's showroom at the adjoining premises, the site is not only out of centre, it is outside any recognised settlement and in any event, should not act as a precedent for further policy defiant developments. No assessment has been submitted to demonstrate that the proposal would satisfy the sequential test set down in the Framework.
9. Policy MD10b of SAMDev sets out a minimum threshold of 200 sqM of retail floor space beyond which an impact assessment would be necessary. In the absence of such assessment, it is difficult to establish the likely trade diversion patterns that would emerge as a consequence of the appeal development. Whilst the appellant has indicated his willingness to accept a planning condition that would limit the range of goods sold at the premises, I agree with the Council that such a condition would run counter with the advice contained within the Planning Practice Guidance in respect of the use of planning conditions. In any event, I am satisfied that the intended end users suggested by the appellant are essentially town centre uses that are unlikely to have connection with the immediate local rural area. I do not accept that the

presence of the existing kitchen manufacturer's showroom alongside in any way creates conditions for co-dependency that might support the appeal proposal.

10. The Framework specifies that where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on existing higher order centres, that it should be refused. In this instance, the effect on the vitality and viability of the nearest town centre at Oswestry cannot be determined and this is a serious omission.
11. Consequently, in the absence of a sequential test, it cannot be demonstrated that there are no sequentially preferable sites available within the town centre, edge of centre or locations close to the town centre that would protect the vitality and viability of Oswestry. This is further compounded by the lack of an impact assessment. Therefore the proposal would conflict with CS policies CS3 and CS15 and with SAMDev policy MD10b and with paragraphs 24 to 27, inclusive of the Framework.

Character and appearance

12. Despite being in open countryside for planning purposes, the presence of dwellings, buildings, tracts of woodland and the busy road junction means that the open character in the immediate vicinity of the appeal site takes on the appearance of a small rural hamlet although no recognition of this is given in planning policy terms. The proposed buildings would be located on a slightly raised platform above the A5 opposite open fields but below the raised embankment that forms the south-western boundary of the site. Beyond the site to the north and west lies open countryside, which is characterised by arable farmland, hedges, small blocks of woodland and a scattering of agricultural dwellings and buildings. Whilst the site is open towards the north, views of the site are only readily discernible from the main roads when close up. Given the existing banking along the southern boundary and the cluster of buildings to the east, I do not consider that the proposed low lying buildings would be particularly prominent in the landscape. Nor would the development appear isolated and would not detract from the appearance and openness of the surrounding area of countryside to the north.
13. The buildings themselves would be of a simple contemporary style using materials that would be entirely appropriate in this setting. I have no reason to disagree with the appellant that the buildings would be of sustainable construction and the site effectively landscaped.
14. I am satisfied that the proposed development would be appropriate in terms of its design, scale, form, impact and siting. As such it would comply with CS policies CS5 and CS6, which in combination amongst other things, seek to ensure that new development in the countryside is designed to take account of local context and character, incorporates sustainable design principles and is appropriately landscaped.

Other considerations and planning balance

15. The upgrade of the existing café business is to be encouraged, particularly given its location on the strategic highway network and the lack of appropriate facilities for passers-by, including tourists visiting the area. I also agree that the development overall would be likely to result in a considerable

enhancement of the visual quality of the site and incorporate design features that are both in keeping with the rural location and which would be sustainable in nature. However, the speculative nature of the proposals coupled with the lack of a sequential test and impact assessment means that I am not persuaded that suitable sites or premises are not available for this type of business within the town centre. On the basis of the evidence I am not convinced that the appeal proposals would not undermine or harm the vitality or viability of the Oswestry town centre, which is a key consideration of development plan policies and the Framework.

Conclusion

16. For the reasons set out above and having regard to all other matters raised, I conclude that this appeal should be dismissed.

Gareth W Thomas

INSPECTOR