



Appeal Decision

Site visit made on 23 April 2013

by Nicholas Taylor BA (Hons) MRTPI

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

Decision date: 16 May 2013

Appeal Ref: APP/T2350/A/12/2189415

10 Market Place, Clitheroe, Lancashire BB7 2DA

- 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 Paddy Power against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2012/0843, dated 14 September 2012, was refused by notice dated 16 November 2012.
 - The development proposed is change of use from Bakery (Class A1) to Betting Shop (Class A2) including alterations to shop front and signage (1 x internally illuminated fascia sign and 1 x illuminated hanging sign). Includes erection of 3 x 900mm satellite dishes to roof of ground floor rear outrigger.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development on the application form, as set out in the banner heading, above, includes signage. The Council dealt with this as a separate application and issued a separate consent. Accordingly, I have dealt with the appeal on the basis that the signage is not part of the appeal scheme.
3. The appellants submitted, with the appeal, a drawing (2012/55/02 Rev D) showing a revised shopfront design. I consider that no party would be disadvantaged by the revision and I have, therefore, dealt with the appeal on the basis of the revised drawing.

Main Issues

4. The main issues in this case are:
 - the effect of the proposal on the retail character of the town centre; and
 - whether the proposed development would preserve or enhance the character or appearance of the Clitheroe Conservation Area and the setting of nearby listed buildings.

Reasons

Retail character of the town centre

5. The appeal premises comprise a two storey building with ground floor shop unit, storage space at first floor level and extensive space to the rear, which formerly accommodated a bakery. Market Place is within Clitheroe town

centre's principal shopping frontage (PSF). Saved Policy S3 of the *Ribble Valley Districtwide Local Plan* (LP) states that, within the PSF, only Class A1 uses and uses for the sale of food and drink for consumption on the premises will be considered appropriate, other than in exceptional circumstances where there would be no material adverse effect to the character of the frontage, general amenity or highway safety. The policy's supporting text explains that the character, attractiveness and vitality of the town centre can suffer as a result of the loss of shopping facilities and the introduction of non-retail uses, which create breaks in shopping frontages and force retail uses to secondary streets.

6. The appellants argue that Policy S3 is out of date, as it was adopted in 1998, well before the publication of the *National Planning Policy Framework* (the Framework) and at a time when the nature of retailing was very different, town centres functioned differently and economic conditions were more buoyant.
7. Paragraph 211 of the Framework states that policies in the Local Plan should not be considered out of date simply because they were adopted prior to the Framework's publication, whilst paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Paragraph 23 of the Framework sets out a number of objectives for local policies with regard to town centres. These include recognising centres as the heart of their communities and supporting their viability and vitality and promoting competitive centres that provide customer choice and a diverse retail offer and which reflect centres' individuality. They also encourage local planning authorities to define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages, and set policies that make clear which uses will be permitted in such locations. I consider that Policy S3 is consistent with all of those objectives.
8. The Council has published its *Submission Draft Core Strategy 2008 -2018 A Local Plan for Ribble Valley* (draft CS). The draft CS has not yet proceeded to Examination and so can be afforded only limited weight. Nevertheless, that weight falls behind Policy S3, as the relevant part of it is incorporated within emerging Policy DMR1 of the draft CS.
9. The appellants maintain, from local knowledge, that the town centre has continued to decline since the *Ribble Valley Employment Land and Retail Study*, in 2008, referred to the town's poor retail offer. However, at my site visit, I did not observe extraordinary evidence of lack of vitality or vibrancy. I accept that some national and local retailers may have closed but I am not convinced that the number of vacancies within the PSF or wider town centre exceeds that which would be expected in the current difficult national economic context. Even if it is accepted that decline has taken place and, as the appellants maintain, little progress is being made on bringing forward new retail development, the final bullet point of paragraph 23 of the Framework, which encourages local planning authorities to plan positively for their future to encourage economic activity, does not indicate that Policy S3 should be afforded reduced weight.
10. The *Planning Design and Access Statement*, submitted with the application, says that Clitheroe has a "relatively vibrant town centre with many smaller units [including] independent retailers". I would not disagree with that description. The town centre as a whole has a pleasant, mixed use character,

but it has a compact PSF in which Market Place, as described by the *Clitheroe Town Centre Masterplan*, is part of its spine and central to Clitheroe's identity.

11. The appellants describe Market Place as having a 'mercantile' quality and it is clear, from all the evidence, including my site visit, that it already has a high proportion of non-A1 uses. Consequently, in principle, further change within Market Place from the uses permitted by Policy S3, creating or enlarging a break in the shopping frontage and, potentially, dispersing A1 uses to a wider area, would erode the retail character of the town centre.
12. Policy S3 allows for exceptional circumstances. It is accepted that the proposal would not result in a material adverse effect to general amenity (I note that it has secured a Betting Licence) or highway safety. The appellants provide survey evidence, from other towns and cities, indicating that, with its long opening hours, their business can attract similar, if not greater, footfall than many A1 uses and that their customers tend to arrive on foot and also patronise other town centre businesses. I do not dispute that a betting shop could contribute to the overall diversity of the town centre's offer but that could be achieved in a location outside the PSF and does not, in this case, justify an exception to Policy S3.
13. I accept that the description 'dead frontage' may be somewhat outdated with regard to betting shops and that some contemporary retailers do not always have elaborate window displays. However, whilst the proposed use would have an open frontage, whereby passers by could see into the unit, it would provide only limited visual interest compared with the typical displays which are characteristic of A1 uses within the PSF. Consequently, the proposal would have a materially adverse effect on the character of the frontage and would not justify an exception to Policy S3 in that regard.
14. Although the property has been vacant for a considerable time, this may be due to a number of reasons other than a general lack of demand in that location. Given its size and prominent location, and allowing for the current economic climate, I am not convinced that the prospects of a Policy S3-compliant use coming forward within a reasonable time are remote. I note the appellants' requirement for a unit above a particular size but limited evidence has been advanced to indicate that there are no other properties available within the town centre as a whole, rather than this particular location. Overall, therefore, not all of the exceptional circumstances referred to in Policy S3 have been demonstrated and nor do material considerations indicate that the policy should be afforded reduced weight.
15. To conclude with regard to first issue, the proposal would introduce a non-A1 retail use and result in the potential loss of shopping facilities within the PSF, thereby harming the retail character of the town centre. As such, it would conflict with LP Policy S3 and with paragraph 23 of the Framework.

Conservation area and listed buildings

16. Clitheroe Conservation Area is extensive, covering the historic centre of the town. Market Place is at its core and all its buildings are listed or Buildings of Townscape Merit. Whilst there are clear architectural and historic themes, including building styles and materials, there is also the considerable diversity to be expected in a town which has evolved over many centuries. The appeal

property is a traditional Building of Townscape Merit and contributes to the significance of the conservation area as a heritage asset.

17. The Council does not take issue with all of the overall proposals for external alterations to the property, including installation of satellite dishes at the rear, and I see no reason to disagree. However, it objects to the proposed shop front and, in particular, the recessed entrance. The revised plans indicate a proposed shop front of similar overall dimensions to the existing, retaining the existing pilasters. The total area of shop window would exceed 50% of the width, albeit divided into two separate elements, and would retain an appropriate stall-riser. Hardly more than the width of the door itself would be recessed.
18. There are numerous examples, throughout the conservation area, including Market Place itself, of shopfronts, both modern and traditional, incorporating recessed elements. Although the *Clitheroe Conservation Area Appraisal* expresses concern regarding inappropriate modern materials or details on shopfronts, within the overall context, the scheme would represent an acceptable modern interpretation of traditional themes and would preserve the character and appearance of the conservation area. In addition, I am satisfied that the setting of the various listed buildings in Market place would also be preserved. It follows that there would be no conflict, in that respect, with LP Policies ENV16 or G1 or with the various paragraphs of the Framework and supporting guidance, relating to design and heritage, referred to by the Council, including paragraph 132, which requires great weight to be given to the conservation of designated heritage assets.

Other Matters

19. I acknowledge that the proposal would generate five jobs and capital investment of £200,000. However, these benefits do not outweigh the harm that I have identified. The proposal would not represent sustainable development, as I have identified conflict with the Local Plan and the Framework's objectives for town centres. Consequently, the Framework's presumption in favour of sustainable development does not weigh in favour of the appeal. I have taken account of all the matters raised, including by interested parties, but none leads me to alter my overall conclusion.

Conclusion

20. For the reasons set out above, the appeal is dismissed.

Nicholas Taylor

INSPECTOR