

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **12<sup>TH</sup> FEBRUARY 2014**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY MR JOHN BURGESS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CHANGE OF USE OF AN A1 SHOP INTO AN A3 FAST FOOD AT 18 CHESTER ROAD WEST, SHOTTON – ALLOWED.**

**1.00 APPLICATION NUMBER**

1.01 050383

**2.00 APPLICANT**

2.01 Mr John Burgess

**3.00 SITE**

3.01 18 Chester Road West, Shotton, Deeside, Flintshire

**4.00 APPLICATION VALID DATE**

4.01 5<sup>th</sup> February 2013

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the Inspector's decision in relation to an appeal into the refusal of planning permission the change of use from a shop into A3 fast food at 18 Chester Road West, Shotton. The application was refused under delegated powers on 27<sup>th</sup> March 2013. The appeal was determined by way of written representations and a site visit. The appeal was ALLOWED with conditions.

**6.00 REPORT**

- 6.01 The Inspector considered that the main issue is the effect of the proposal on the vitality and viability of the Shotton town centre.
- 6.02 The Inspector accepted that the Council's assessment that the proposed change of use would result in a non-shop frontage in excess of 25% of the continuous frontage and therefore would not conform to the requirements of policy S7 of the UDP.
- 6.03 However, she considered that the Council had not provided any substantive evidence to explain the actual harm that might be caused to the role of the centre in this case. She referred to the supporting text to Policy S7 in that the aim of this policy is to concentrate retail activity in the core of the town centre at high densities to achieve a critical mass of retailing. It is designed to prevent other commercial uses from locating in a core retail area and displacing shops to more peripheral locations to the detriment of the attraction of the town centre as a place to shop.
- 6.04 The Inspector found that in this case, the continuous frontage in which the appeal premises are situated is currently made up of a predominance of non A1 uses. As such, she did not consider that this particular row of commercial properties contribute significantly to the critical mass of A1 retailing in the town centre. Given its peripheral location on the edge of the core retail area, neither did she consider that the change of use of the premises would unduly displace a shop use in a central position in the town centre.

## **7.00 CONCLUSION**

- 7.01 It was considered by the Inspector that this particular row of commercial properties are complementary to the A1 retail offer in the core retail area. In this context, the change of use would not compromise the important function of the centre to meet the shopping needs of the community in terms of both the quality and the range of goods. She therefore concluded, notwithstanding that the proposal would not meet the criteria of policy S7, including the vacancy test, it would not be fundamentally at odds with its overall objective to sustain the vitality and viability of the town centre. For this reason, the Inspector ALLOWED the appeal subject to conditions.

## **8.00 COMMENT**

- 8.01 This appeal decision provides another example of the difficulties in resisting development which is contrary to UDP Policy S7, which the Inspector recognises, is geared towards protecting the vitality and viability of town centres. She refers to the fact that there is no evidence of the harm that would be caused to the role of the centre but it is difficult to fathom how such evidence would be collected without complex modelling and projection based on trading patterns. Clearly it would not be practical or feasible to undertake such an

exercise in the context of a change of use of a single, small retail unit.

- 8.02 In the absence of any 'evidence' to the contrary the Inspector goes on to downplay the significance of this premises in relation to the Shotton core retail area, which effectively raises questions over the way in which this has been delineated. Whereas Policy S7 seeks to provide some certainty it seems that in the light of this decision individual applications need to be considered on their merits in the light of context and circumstances. How this will work in future remains to be seen but Members might agree that we need to explore this decision and its implication for Policy S7 in more detail when next we report appeal decisions to Planning Strategy Group.

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