Sequential Test Assessment

882, Bradford Road, Birkenshaw, BD11 2AT

Henszel Design Ltd

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1. Introduction

1.1 This report is submitted in support of the planning application for a single chair hair and beauty salon at 882 Bradford Road BD11 2AT

1.2 The proposal comprises of the conversion of an adapted garage/ Utility room to a salon serving one customer at a time

1.3 In light of national guidance, but with the above in mind, this report is submitted as a Sequential Test analysis considering town centre and other potential sites in and surrounding the application site.

2. The Proposed Development

2.1 Before assessing the proposals against relevant planning policy, it is important to first understand the salon operation and proposal.

2.2 The surrounding area is out of town but served by a regular bus route in and out of the town centre.

2.3 The customer base is reasonably local with the owners' friends and loyal customers attending a home based Salon for Hair and beauty treatment.

2.4 The local amenity in town in commercial rentable property offers no such small facility at an affordable rent

2.5 The owner offers a personal service in part time hours working around school times and early evening appointments.

2.6 The amount of Revenue gained from this part time business is small.

2.7 The service offered by the "home Business" is affordable for clients who would not normally attend higher priced in town facilities.

2.8 The proposed change of use planning application is a minor change in the mixed commercial and domestic area.

3. Planning Policy Background

3.1 This section considers the Sequential Test policy background for the proposal, starting with National Policy, and then referring to Local Policy.

National Planning Policy Framework (February 2019)

3.2 The Framework advises that planning policy should generally promote competitive town centres, and that in drawing up local plans local authorities should, amongst other issues, allocate a range of sites to meet the scale and type of retail developments needed in town centres. Para 86 states

> *"Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered."*

3.3 The Framework further confirms that LPAs should *"allocate appropriate edge of centre sites for main town centre use"* where *"suitable and viable town centre sites are not available."* It further states that if edge-of-centre sites are not available, policies should consider other accessible locations that are well connected with the town centre.

3.4 The Framework encourages economic growth. Paragraph 80 states:

> *Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future."*

3.5 Para 86 sets out the requirement for the sequential test where proposals are not in accordance with an up-to-date development plan, focusing location on Town Centre, then edge-of-centre and then out-of-centre. The guidance confirms that when edge and out of centre proposals are considered; preference should be given to accessible sites.

3.6 Para 88 confirms that both LPAs and applicants should be flexible when considering format and scale.

3.7 Para 89 of the Framework requires impact assessments to be completed on retail proposals over 2,500sqm if there is no locally set threshold.

3.8 Para 90 further confirms that where permissions are to be refused it should be demonstrated that 'significant adverse impact' will occur.

3.9 Annex 2 of the Framework confirms "References to town centres or centres apply to city centres, town centres, district centres and **local centres** but exclude small parades of shops of purely neighbourhood significance." *Our emphasis.*

3.10 We concur with the council that drive thru restaurants are considered to be leisure uses rather than retail uses, defined in Annex 2.

Local Plan

3.11 The Local Plan sets out the strategy up to 2038

3.12 The subject site is within the built-up boundary of Birkinshaw.

Relevant Case Law

3.13 It's important to give regard to relevant case law relating to sequential tests. In 2006, the courts held that it is not for the applicant to reduce or segregate their proposal so that it could be made to fit elsewhere stating:

> *The question is whether the alternative town centre site, in this case the existing town centre site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit into the alternative low cost site.*

3.14 It is noted that the sequential test makes provision for small developments and excludes minor proposals from the requirement.

3.15 In 2012, the courts confirmed that directing applicants to smaller town centre sites is inappropriate. The suitability is directed at the developer's proposal, not some alterative scheme:

> *The issue of suitability is directed to the developer's proposal, not some alternative scheme which might be suggested by the planning authority.*

> *To refuse an out-of-centre planning consent on the grounds that an admittedly smaller site is available within the town may be to take an entirely inappropriate business decision on behalf of the applicant [Tesco Stores Ltd v Dundee City Council (2012)]*

3.16 This case also established that if a site is not suitable for the commercial requirements of the applicant, then it is not suitable for the purposes of the sequential test. This has been supported in a number of appeal decisions, generally confirming that in considering suitability the specific market that the applicant is seeking to serve, and the requirements of the end user should be taken into account., in this case the rental cost of an in town retail unit is not viable for a low cost part time hobby business.

3.17 The Rushden Lakes SoS decision (APP/G2815/V/12/2190175) references the Dundee case. In agreeing with the Inspector, the Secretary of State confirms that the Dundee case established the principal that if a site is not suitable for the commercial requirements of the developer in question, then it is not a suitable site for the purposes of the sequential test. Thus, it is for the proposed development to be considered (not an alternative development), when looking at alternative sequential site. The Inspector states:

> *"There is no suggestion here that the sequential test means to refer to anything other than the application proposal."*

3.18 In light of the above, the proposal needs to be considered in context as a whole low-cost service provider and cannot be segregated. The suggestion of an in-town scheme would represent "an inappropriate business decision on behalf of the applicant".

3.19 To support the format of as conversion of a domestic annex to a small-time hobby business would seem acceptable when the scheme and its principals are understood.

3.20 The proposal will serve the local market and passing traffic. It could be classed as a roadside location. The sequential test and roadside facilities have been considered in regard to home businesses. The most recent appeal decision is at Baynards Green where the inspector considered the sequential test not relevant to roadside services. A copy can be provided on request.

4. The Sequential Test

Introduction

4.1 In the light of the preceding section and with reference to the Baynards Green appeal decision, it is our view that the proposal, principally serving the passing population as a roadside service and the small size of the proposal it is not subject to the sequential test. This is our principal stance, but in the spirit of working with the council we have also undertaken a sequential test. This is limited to the market the Bradford Road area.

4.2 In accordance with a request from the council, we have undertaken a sequential assessment to determine whether there are any sequentially preferable sites to the site that has been selected to accommodate the proposed service The order of priority is set out in the Framework and comprises of the Town Centre, Edge of Centre, and accessible location out of centre.

4.3 The nearest centre to the subject site is Birkinshaw and Bradford, The centre of these towns and cities is some distance from the site, as is the principle target for customers for the proposed salon.

4.4 The subject site is defined as being out of centre.

Methodology

4.5 This statement has been written in accordance with both Chapter 7 of the NPPF, "*Ensuring the vitality of town centres*" and the Local Development Plan.

4.6 This assessment has been based in accordance with both local and national planning policy.

4.7 Given the policy considerations above the sequential hierarchy of Town Centre, Edge of Centre and Out of Centre has been applied within this assessment.

4.8 The proposal is just under the size of a garage at 21 M2

Area of Search for Alternative sites

4.9 In considering the area of sequential search we have taken account of the surrounding centres, and indeed where the catchment of the proposal is likely to be. The principle centres of Birkinshaw and Bradford.

4.10 For information, the proposal is a hobby business providing a budget service for the local community which cannot be accommodated in the larger towns and citys

4.11 In line with local and national guidance, careful consideration is given to the sequential approach, considering town centres moving away from the designated centre to edge of centres. In this case, out of centre locations have not been considered, given the sites location on the edge of the defined centre.

Suitable, Available and Viable

4.12 Paragraphs 85-90 of the NPPF require that where sequentially preferable sites are available, they should be considered for development. It should be demonstrated, and sound reasoning given, that such sites are either not suitable, not available or are not viable.

i. **Suitability** – *The suitability of each site to accommodate the development proposal.*

In accordance with Practice Guidance on Need, Impact and the Sequential Approach, consideration is given to policy restrictions, physical limitations, potential impacts and environmental conditions experienced by potential users of the proposal.

ii. **Availability** – *Whether the site is available (or is likely to become available within a reasonable period of time – NPPF February 2019), with specific reference to the potential for acquisition.*

iii. **Viability** – *The extent to which the site would provide a genuine and viable trading location for McDonald's*.

Generally speaking, a drive-thru requires 20,000 passing traffic movements for a roadside location or other 'attractors. The subject site will provide a significant amount of passing trade supported by a mix of operators in the immediate area.

Scale

4.13 The scale of the development is of course a consideration in assessing sites suitability in terms of size. The proposal amounts to 21 m^2. A key element of the proposal includes the parking bus routes located on site.

5. Site Assessments

5.1 We have considered the town centre and the edge of the centre. With the exception of the application site and the sites identified below, there are no other sequentially preferable site.

5.2 Should the council be aware of any additional sites that have not been considered, we would of course be happy to consider them.

Bradford Road

5.3 We have been unable to find an available site in the centre or on the edge of centre. We have not seen any low cost rentable commercial property on the Bradford road within walking or public transport range of the proposers home.

Bradford

5.4 No sites could be found for conversion within a travelable distance from the proposers client base.

5.5 My clients are in discussion with most of the estate agents regarding available propertys

Conclusion

5.6 We have considered the surround centres and their edges and there are no sites suitable for properly sequentially testing for a restaurant and drive thru. Should the council be aware of any, we would of course be happy to consider them in detail.

5.7 In summary, there are no sequentially preferable sites suitable for the proposed development

6 Conclusion

6.1 The proposal is a roadside services site and a hobby low cost business, in the light of the inspectors' appeal decision at Baynards Green, a sequential test is not required for the proposal.

6.2 In the spirit of working with the council, and at their request, this report has been completed. This has been done in accordance with the advice contained within the Framework and the National Guidance, we have carried out an assessment of alternative sites in and around the locality.

6.3 The proposal is for a small beauty salon in a converted annex to the home domestic property

6.4 Paragraph 86 of the Framework sets out the sequential test where proposed sites for the proposed use are outside of a town centre. The requirement is to undertake a sequential assessment of the proposal to determine whether there are any sequentially preferable sites.

6.5 In the absence of any alternative sites, the application site continues to be the sequentially preferred location for the development which is a change of use.

6.6 The location of the proposed development is not only sequentially the most appropriate, but also the optimum location for the proposed use. It also provides an opportunity to take advantage of passing traffic and linked trips. It accords with the National Planning Policy Guidance, in that the proposal is locationally specific.

6.7 The proposed salon is designed to appeal to customers already passing the site. It is predominantly local service. This makes the proposed site an appropriate and sustainable location.

6.8 The proposal will have no significant adverse effect on any town centre, therefore accords with the Framework. We trust in light of the sites considered in this assessment; officers will look favourably on the proposal for approval.