
Appeal Decision

Site visit made on 4 April 2012

by Wendy J Burden BA DipTP MRTPI

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

Decision date: 18 April 2012

Appeal Ref: APP/D2510/A/11/2167845

28 Lumley Road, Skegness, PE25 3NG

- 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 Instant Cash Loans Ltd against the decision of East Lindsey District Council.
 - The application Ref S/153/01943/11, dated 13 10 11, was refused by notice dated 20 12 11.
 - The development proposed is change of use from Use Class A1 (Retail) to A2 (Financial Services).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from Use Class A1 (Retail) to A2 (Financial Services) at 28 Lumley Road, Skegness, PE25 3NG in accordance with the terms of the application, Ref S/153/01943/11, dated 13 10 11, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 1:2500 scale plan.
 - 3) A shop type display shall be maintained in the windows of the ground floor principal elevation of the premises at all times.

Application for costs

2. An application for costs was made by Instant Cash Loans Ltd against East Lindsey District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed change of use on the vitality and viability of Skegness town centre.

Reasons

4. Since the appeal was submitted, the National Planning Policy Framework has been adopted and Planning Policy Statement 4 has been withdrawn. The new Framework carries forward the objectives of PPS4 in terms of the promotion of competitive, vital and viable town centres. In this case the appeal site is located within the Protected Shopping Frontage in the East Lindsey Local Plan Alterations 1999. Policy S4 of the Plan deals with this notation and states that

in such areas the Council will not permit new development or a change of use which results in the loss of a shopping use.

5. The Council argues that the Framework is implicitly supportive of Policy S4 since it encourages local planning authorities to define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations. However, the Framework states under paragraph 23 that it is important that needs for retail, leisure, office and other town centre uses are met in full. The explanatory text to Policy S4 states that only where special advantages could accrue to the vitality or viability of the town centre as a direct result of a change from shopping use would an exception to the policy be considered. However, there is no clarification of what might constitute a "special advantage" and the prohibition on the loss of retail uses in the protected shopping frontages does not reflect the recognition in national policy that uses other than retail are suitable for town centre locations and can contribute to their vitality and viability.
6. Skegness is a seaside resort and although my visit was out of the main holiday season, there was a high level of pedestrian activity within the shopping centre. I have no doubt that the centre becomes busier at other times of the year. However, within the 145 units which form the Protected Shopping Frontage, there is a vacancy rate of 8% (12 units), which is relatively high for a main shopping location. Furthermore, 4 units are in use as charity shops, and 6 other occupied units are being marketed. Thus in addition to the 12 vacant units a further 10 have insecure tenancies and could become vacant at any time.
7. Although the appeal site is currently in use as a furniture retailer, the appellant points out that is a temporary use by the landlord's family to keep the shop open to cover the cost of rates and utilities. Prior to that use the unit had been vacant. It has been marketed since March 2010 with no sustained interest from any retail occupier. The appellant would take a 10 year lease and invest in the refurbishment of the unit.
8. The frontage to the appeal site is of limited width, and the unit has A1 uses to either side. It would be used to provide a financial service direct to shoppers including cheque cashing services, money transfer and foreign currency exchange. From experience with similar units in other towns, the appellant estimates that store footfall on a daily basis would be in the region of 620 visits per day. As a result, rather than provide a dead frontage, the proposed use would attract visitors to this part of the shopping centre, and help support the vitality and viability of other units within the frontage.
9. Even with the change of use of the appeal site, the dominant use within the Protected Shopping Frontage, (some 68% of units) would remain as A1 retail. I understand the Council's wish to secure the availability of smaller retail units to rent which are more affordable for local retail businesses. However, in view of the high level of vacancies in this frontage, and the availability of other units for rental, I consider that the use of the appeal premises by an occupier which would attract footfall along this part of Lumley Road, and provide a secure tenancy for 10 years would be of positive benefit to the health of the Protected Shopping Frontage.

10. The Council put forward conditions to be imposed on any planning permission. Condition 2 in the list seeks a restriction to use by the appellant and no other use within Class A2. Circular 11/95 states that such conditions should not be imposed unless there is clear evidence that the uses excluded would have serious effects on amenity or the environment, and serve a clear planning purpose. In this case I am not convinced that there is sufficient evidence of harm from an unrestricted A2 use to justify such a condition. Condition 3 requires details of a shop window display to be submitted. Whilst I agree that the maintenance of an active shop frontage is important in this location, this type of use is likely to wish to change its display on a regular basis so I prefer the wording put forward on behalf of the appellant. The other two conditions proposed by the Council would be appropriate.
11. For the reasons set out above, I conclude that the proposed change of use would make a positive contribution to the promotion of Skegness as a competitive town centre in accordance with national planning policy.

Wendy Burden

INSPECTOR