



## Appeal Decision

Site visit made on 17 May 2007

by Robin Bradbeer BA (Hons) MRTPI

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

The Planning Inspectorate  
4/F31 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: enquiries@pim.ssi.gov.uk

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### Appeal Ref: APP/Z3635/A/06/2033563

Part of ground floor 66-68 High Street, Staines TW18 4DY

- 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 Starbucks Coffee (UK) Ltd against the decision of Spelthorne Borough Council.
- The application Ref. 06/00756/COU, dated 18 August 2006, was refused by notice dated 12 October 2006.
- The development proposed is change of use to coffee shop within a mixed A1/A3 use.

**Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.**

#### Main issue

1. The main issue is whether the proposal would undermine the retail function of Staines town centre.

#### Planning Policy

2. The development plan includes the Spelthorne Borough Local Plan 2001. Inset Map 1 denotes the site within the core shopping area. Policy S1 expresses the broad aim to maintain and enhance the vitality and viability of existing centres by various measures. Of particular relevance is clause (d), which provides for non-retail uses that contribute to the overall vitality of the centre whilst maintaining an appropriate balance between retail and non-retail uses in the shopping frontage; and clause (e), which resists proposals that would undermine the vitality and viability of any existing centre. Policy S2 applies this general aim to Staines town centre by measures that include generally resisting the loss of retail floorspace. Policy S3 sets out the Council's approach to assessing proposals for change of use of existing premises within Class A1. Within the High Street section of the core shopping area, criterion (a) seeks to maintain the retail frontage length to at least 80%. Policy S13 sets out design and amenity considerations in relation to proposals for restaurant and take-away facilities.
3. I have also been referred to national policy guidance in Planning Policy Statement 6 (PPS6) *Planning for Town Centres* and to Circular 03/2005 *Changes of Use of Buildings and Land*, which at paragraph 36 deals with coffee shops.

#### Reasons

4. The appeal site comprises the eastern section of these vacant shop premises, which are located on the north side of the pedestrianised High Street opposite the entrance to the Elmsleigh Centre. That recently refurbished covered shopping mall is the prime retail location in the town centre. Nearby, the Two

Rivers and Tilly's Lane retail developments, both completed since 2001, provide significant new shopping facilities in the town centre.

5. The proposed layout of the premises shown on drawing No BRS.0889\_03-1A includes seating for some 41 customers, a servery situated towards the front of the unit and merchandise displays in the vicinity of the shopfront. No hot food sales either for eating in or for take-away are proposed. The Appellant anticipates that take-away trade, including sale of retail goods is likely to represent approximately 40-50% of total trade.
6. The explanatory text that follows Policy S3 defines the retail frontage length in the High Street section of the core area. It also says that allowing for the outstanding permission for the Tilly's Lane development the retail frontage length at December 1999 was calculated to be 75.4%, which I note is below the 80% minimum referred to in the Policy. It is common ground between the parties that the retail frontage length within this defined area is currently below the December 1999 figure.
7. The Council claims that in spite of the proposed merchandise displays the extent of seating would nonetheless cause the premises to be perceived as predominately A3. It adds that provision of outdoor seating, which is not proposed in this application, would exacerbate this problem. The Council also argues that there is adequate provision for A3 uses and coffee shops nearby. No objection is raised on design and amenity grounds.
8. The Appellant's case is supported by evidence, unchallenged by the Council, prepared by independent market research firms that includes surveys of existing Starbucks premises occupying similar town centre high street locations. A patronage survey indicates that the proposed use would be likely to attract significant customer flows throughout the day and generate an overall level of customer activity similar to or greater than A1 use of the site. A customer survey indicates that the proposed use would be likely to perform a complementary function to town centre shopping facilities as well as attracting people to the town centre in its own right. I have no reason to disagree with these findings.
9. Although a significant proportion of the premises would comprise customer seating areas I am satisfied the intended position of the servery and merchandise displays, which could be controlled by condition, taken together with the likely level of pedestrian activity generated by the use, would maintain both the appearance and character of a retail frontage. The matter of outdoor seating is not before me to determine and any such proposal would be subject to due process independently from this appeal. I saw that there are other refreshment facilities in the area including two branded coffee shops, one in Norris Road and another in Tilly's Lane. However, bearing in mind the Government's objectives for town centres as set out in PPS6, which include enhancing consumer choice and supporting a competitive retail sector, I give limited weight to the Council's objection based on its assertion of inadequate need.
10. The proposed mixed use does not fully accord with the relevant development plan policies to which I have referred, because it would result in a loss of retail floorspace. However, taking into account the particular characteristics of the proposed use, which is associated with market changes that have arisen largely

since the development plan was prepared, I conclude that it would not harm the vitality and viability of the town centre and therefore it would not undermine its retail function.

**Other Matters**

11. Marketing evidence provided by the Appellant demonstrates the difficulties that have been experienced in letting these premises over a period of some 12 months. This consideration, combined with the support for the proposal expressed by the Surrey Chambers of Commerce and a number of local traders together with the appeal decisions for similar uses elsewhere referred to by the Appellant, lends weight to my findings.

**Conclusions**

12. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

**Conditions**

13. Conditions suggested by the Council relating to internal layout and the extent of cooking at the premises are necessary in view of the mixed nature of the use and having regard to the Council's shopping policies. For the same reasons a further condition, suggested by the Appellant, relating to use of the premises as a coffee shop is also necessary.

**Formal Decision**

14. I allow the appeal, and grant planning permission for use as a coffee shop within a mixed A1/A3 use at part of ground floor 66-68 High Street, Staines TW18 4DY in accordance with the terms of the application, Ref. 06/00756/COU, dated 18 August 2006, and the plans submitted therewith, subject to the following conditions:
  - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
  - 2) The premises shall not be used other than as a coffee shop also serving other hot and cold drinks, sandwiches and similar light refreshments for consumption on or off the premises.
  - 3) No primary cooking of unprepared food shall be carried on within the premises. Only reheated or cold food that has been prepared elsewhere shall be served within the premises.
  - 4) The use shall not commence until the servery and merchandise displays shown on drawing No BRS.0889\_03-1A have been provided. Those elements of the proposal shall be retained thereafter in the permitted positions.

*Robin Bradbeer*

INSPECTOR

