

SEQUENTIAL TEST TO SUPPORT THE CHANGE THE USE OF THE GROUND FLOOR OF THE FARMERS ARMS PUBLIC HOUSE AND HOT FOOD TAKE AWAY (USE CLASS SUI GENRIS) FOR USE AS A CONVENIENCE STORE (USE CLASS E(a))

SITE ADDRESS:- THE FARMERS ARMS, MOORFIELD, KIRKBY. L33 1XD

APPLICANT: TISA PROPERTY LIMITED

PLANNING AGENT:- MR MIKE CARR MSc MRTPI, DIRECTOR MAT DESIGN
LIMITED

DATE:- AUG 2021 - SEPT2021

1. INTRODUCTION

1.1 This Sequential Test (ST) has been prepared by Mr Mike Carr MSc MRTPI (MAT Design Limited) on behalf of TISA Property Limited, to support of a planning application that proposes the change of use of the vacant public house and hot food take away for use as a convenience retail premises.

Further to the above, this ST also takes into account the specific Policy directions that are set out in the Knowsley UDP (Saved Policies) and Knowsley Core Strategy and the provisions set out in Section 7 (Ensuring the vitality of town centres) paragraph 86 - 91 of the National Planning Policy Framework 2021 (NPPF), given that this site is located outside of a recognised town centre and on the edge of the Moorfield Local Centre.

1.2 Overall, this Sequential Test will set out and assess the following details:-

- The application site;
- The planning history;
- The proposed development;
- The national and local planning policy context;
- Site suitability for the proposed use;
- The sequential test approach;
- The proposed use of the site and the requirements of paragraph 24;
- The suitability of the site for the proposed use;
- The sequential test results assessment;
- The wider regeneration benefits and other material planning considerations attached to this planning application;
- The sequential test summary & conclusions and;

- Annex 1, Table 1 – Identified sites and sequential assessment

2. THE APPLICATION SITE AND ITS SURROUNDS

The site subject of this planning application is a c=vacant public house and hot food premises, known locally as The Farmers Arms, which is located along Moorfield, and is situated 250m from the nearest Local Centre(Moorfield). The general area is predominantly residential, although it is interspersed with small commercial premises and public buildings, which serve the local community.

In terms of the sites lawful use, this involved the sale of drink/food and as a hot food take away at ground floor, with provided residential accommodation to the first floor. Deliveries and refuse collections for the premises are taken from Mossborough Drive.

The Local Planning Authority confirmed on 18th June 2021, via Lawful Development Certificate applciation 21/00247/CLU that the use of the premises was lawful. For the avoidance of doubt, the lawful use is the use of the building as a mixed use public house and hot food takeaway/delivery business (sui generis).

The Farmers Arms has been vacant for approximately 24 months and there is little chance of the premises re-opening for its lawful use. It also is noteworthy that the vacant residential accommodation above, was a significant consideration for the applicant in the purchase of the site, so that the family could live above the proposed store.

Overall, the site is in a highly sustainable location for local people and would provide an excellent opportunity to purchase convenience goods and provide a wider selection of convenience goods to supplement this already offered at the Moorfield Local Centre. The significant increase in new build residential accommodation in area is also a material consideration in providing a wider range of services for the area.

3. RELEVANT PLANNING HISTORY

- Planning application 13/00614/COU - Continuation of use of part of existing public house as a hot food takeaway resulting in a mixed use development of public house (Use class A4) and hot food takeaway & delivery business (Use Class A5) – Granted subject to 2 planning conditions on 26th February 2014;
- Plannign applciation 20/00655/FUL - Change of use of public house (use class sui generis) to form part convenience store and part hot food takeaway (use class e / sui generis) together with the erection of a single storey rear extension and the erection of a 2.1m high wall to the north and east boundary, installation of 2 no. vehicular access gates and the construction of a new vehicular access to Mossborough drive – Refused 4th February 2021;
- Certificate of lawfulness 21/00247/CLU for the use of the building as a mixed use public house and hot food takeaway/delivery business (sui generis) – Granted 18th June 2021.

4. NATIONAL & LOCAL PLANNING POLICY AND GUIDANCE

National & Local Planning Policy for the purposes of this test and application comprises of:-

- The National Planning Policy Framework (NPPF);
- National Planning Practice Guidance (NPPG)

- The Knowsley Unitary Development Plan (Saved Policies) and;
- The Knowsley Core Strategy.

4.1 THE SEQUENTIAL TEST APPROACH

4.11 The proposed development is located out of centre in planning policy terms. As such, it is necessary to demonstrate that there are no suitable, available and viable sequentially preferable sites that could accommodate the proposed development.

4.12 For purposes attached to this test, the key planning policy requirements are set out in Section 7 of the NPPF, which states that Local Planning Authorities (LPA's) should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan.

LPA's should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

4.13 Further to the above, it is also important at the outset to correctly interpret and apply the sequential test process, taking into account case law and relevant appeal decisions.

For example, as highlighted in the Dundee (March 2012) case, the Supreme Court ruled that ***"suitable" means "suitable for the development proposed by the applicant" and, more recently, the Secretary of State in the Rushden appeal decision (June 2014), has confirmed that the sequential test needs to be considered in the context of the specific development proposed by the applicant, and not simply a "class of goods" approach or some attempt at disaggregation that might otherwise seek to accommodate elements of the proposed development on a smaller, sequentially preferable site.***

4.14 Therefore, if a site is to be considered suitable for the commercial requirements of a developer/the development, any such site clearly needs to be considered in light of the specific proposals and floor space required for the use.

The Supreme Court decision and the later Secretary of State decisions referred to above, both assist in demonstrating how the sequential test should be lawfully and properly applied.

4.16 Whilst this report acknowledges the requirement for some flexibility in applying the sequential test approach, as referred to in the National Planning Guidance, experience has shown that such an approach this needs to be applied sensibly in the context of scale and format of the development proposed. In this case, a small scale convenience store with residential accommodation above, is well located in terms of its position to the surrounding area and main transportation links to the surround road network..

Furthermore, it is clearly not the purpose of national or local planning policy to require a developer to seriously compromise their proposals, by requiring them to separate into different parts, or to take on floor space that is either too small or too large, which may mean the development becomes economically unsustainable. Residential accommodation for the family is also a material factor.

In this context, it would be wholly unreasonable to expect the applicant/retailer to amend a proposal to the extent that it no longer meets their business requirement and family requirements, and becomes unviable.

4.17 THE SCOPE & CRITERIA OF THE SEQUENTIAL TEST

The scope of any ST must be both sensible and within reasonable parameters. As such and in this case, we have spoken to the LPA and they advised that the scope of the assessment should look at the centres in Kirkby to the north of the railway line. Those are The Glovers Brow and Moorfield Centres.

This test will therefore assess the merits of any available sites that could reasonably accommodate the proposed development, allowing for a reasonable degree of flexibility as required by national policy, and the requirements of the applicants business, which are currently available and suitable in the Town Centre.

5. THE PARAMETERS OF THE SEQUENTIAL TEST

6. 5.1 Availability: - The NPPF (Paragraph 86) helpfully sheds light on the correct interpretation of this aspect of the test, and simply asks whether town centre or edges of centre sites are “available” or expected to become available within a reasonable period”. Importantly, it does not ask whether such sites are likely to become available during the remainder of the plan-period or over a period of some years.

Put simply, the correct approach is to ascertain whether a site is currently available or will be available soon, rather than speculate if a site may become available at some indeterminate future date.

5.2 Suitability: - Suitability relates to whether the proposed development can be reasonably and successfully located at a particular site. There are a number of key considerations in this respect.

Firstly, the test is only relevant in the context of the “requirement” that the proposed development will meet the needs of the proposed use in terms of commercial floor space provision, car parking and accessibility.

Secondly, the basic business requirements of the applicant are of fundamental importance. In this respect, what it is significant in this respect is the requirement for the commercial floor space (convenience shopping) be of a certain size, so as to allow the operator to be able to customer expectations and retail sales.

Put simply, units that are materially smaller or larger would be seriously compromised and would not represent a viable development from the applicant’s perspective.

Taking the above into account, the suitability of any land, building or its lawful use and any future changes of use are fundamental planning considerations in this planning application, particularly when planning policy requirements require the application site to be sequentially assessed against any other vacant buildings within the area of the sequential test.

In this case, it is highlighted that the floor space and proposed layout of the application site provides the most suitable requirements for the proposed development.

5.3 Viability: - Any alternative site sites should not present any obvious economic obstacles to the proposed development, such as financial investment. In this case, given that the applicant is the owner of the supplication site and does not own any other buildings in the Borough, is a significant consideration in this case

6. THE SEQUENTIAL TEST ASSESSMENT

6.1 For the purposes of this sequential test examination, the results assessment focuses on available sites within the sequential test area identified in Annexe 1 of this report.

The ST period covered 22nd August 2021 – 21st September 2021 and involved a walkabout search around both Local Centres and is perimeter (02/09/2021 & 15/09/2021), , along with a desktop survey using:-

- Knowsley Council commercial property for sale registers site availability listing;
- Rightmove's online search engine of commercial premises for sale;
- Zoopla's online search engine of commercial premises for sale;
- Websites of local independent commercial agents.

PLEASE NOTE THAT THE WALKABOUT SURVEY WAS PARTLY AFFECTED BY COVID 19.

6.12 Further to the above, Table 1, set out in Annex 1, identifies the following:-

- Sites available for sale in the test area;
- The size of the site (suitability;
- The lawful use of the premises (suitability if planning permission is required);
- The viability of any alternative site in terms of the inward investment that would be required.

7. SEQUENTIAL TEST CONCLUSIONS

8. The results of the test examination were that there is 1 premises known as Clarkes Boutique currently vacant in The Glovers Brow Local Centre, whilst there are no vacancies in the Moorfield Centre. Clarkes Boutique is a constrained site with a retail floor space of 45m² and would not provide sufficient floor space for the proposed use at The Farmers Arms.

As such, the results of this Sequential Test are that there are no suitable or viable sites in the The Glovers Brow and Moorfield Centres available that are available to accommodate the proposed use.

ANNEX 1 - TABLE 1 – SITES REASONABLY AVAILABLE AND TESTED WITH THE TEST TIME FRAME (22nd August 2021 - 21st September 2021)

THE FARMERS ARMS PUBLIC HOUSE SITE SPECIFIC CRITERIA	SITES FOR SALE/RENT	SITE SIZE & LOCATION	LAWFUL USE OF THE PREMISES	FINANCIAL INVERSTMENT REQUIRED	SUITABILITY OF THE SITE TO ACCOMMODATE THE USE
1. 245m2 ground floor trading space inc office and staff area; 2. Internal layout suitable; 3. Service yard and bin store; 4. Site car parking/servicing 5. Family residential accommodation above.					
GLOVERS BROW Units - 1 - 8 Glovers Brow The Tattoo Parlour Totally Wicked Body fuel Clarkes Boutique Village News Food for Thought William Hill The Hair Station	Occupied Occupied Occupied Vacant Occupied Occupied Occupied Occupied Occupied	45m2	Class E	N/A	N/A N/A N/A Floor space to small N/A N/A N/A N/A N/A

MOORFIELD					
Wok This Way	Occupied				N/A
Grandstand	Occupied				N/A
Go Local (Binny's)	Occupied				N/A
The Post Office	Occupied				N/A
Oxygen Hair Salon	Occupied				N/A
Male Grooming Lounge	Occupied				N/A
Kirkby Vets	Occupied				N/A