The Planning Inspectorate

Appeal Decision

Site visit made on 25 October 2016

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 17 November 2016

Appeal Ref: APP/V4305/W/16/3152599
Unit 17, Chapel Brook Trade Park, Wilson Road, Huyton, Knowsley L36 6FH

- 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 Mrs Sara Humphries of Greggs plc against the decision of Knowsley Metropolitan Borough Council.
- The application Ref 16/00067/FUL, dated 2 February 2016, was refused by notice dated 24 March 2016.
- The development proposed is a new shopfront, 2 fascia signs, 2 air conditioning condensers and 1 extract grille. Change of use for mixed A1/A3.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises of "a new shopfront, 2 air conditioning condensers, 1 extract grille and a change of use for mixed A1/A3." The Council dealt with the proposal on this basis and so shall I, given that the parties have confirmed that the adverts were granted consent by the Council on 29 March 2016 under a separate application reference.[1]

Main Issues

3. The main issues are (i) whether or not the proposed change of use is a main town centre use and, if so, whether the proposed change of use satisfies a sequential test; (ii) whether or not it has been demonstrated that there is a current or future demand for employment uses on the land or that a change of use would provide wider regeneration, environmental and amenity benefits; and (iii) the effect of the proposal on the supply of employment land in the borough.

Reasons

Whether a main town centre use and sequential test

4. The appellant advances the argument that the proposed mixed A1/A3 use could not be construed purely as a town centre use on the basis that they operate in numerous locations across the UK where there is a demand for fresh food on the go, including in similar industrial estates. Even though this may be

[1] Council Ref: 16/00068/ADV

the case, I do not agree with this view given the definition of a main town centre use found in Annex 2 of the National Planning Policy Framework (the Framework). Also no specific examples have been cited by the appellant.

5. The appeal site is part of the Chapel Brook Trade Park (trade park) which is in Huyton Business Park. The site is allocated as a Primary Industrial Area in the Knowsley Local Plan: Core Strategy (the Core Strategy) Proposals Map and as such it is outside the Town Centre or any other District or Local Centre. Given the proposed main town centre use, a sequential test needs to be carried out to demonstrate that there are no other suitable sites available within such a centre in accordance with Polices CS4 and CS6 of the Core Strategy. These policies have been recently adopted and reflect paragraphs 24 and 27 of the Framework. As such, they are to be afforded significant weight.

6. The purpose of the sequential approach is to protect the vitality and viability of existing centres. The appellant does not dispute the Council's point that there are a number of vacant premises within the Town Centre. Thus, these should, notwithstanding the extent of the appellant's existing premises in the borough, be considered prior to allowing main town centres uses outside of these centres. Although the appeal site is currently vacant, failure to consider sites in the Town Centre or any other District or Local Centre first would result in these units remaining vacant and, therefore, having a detrimental effect on the vitality and viability of these centres.

7. It is clear that the Council does not prohibit main town centre uses outside the defined centres, only that before they consider them acceptable the required sequential test must first be met. Regardless of any appetite for the use, vacancy rates, job opportunities and investment in other stores, I conclude that the appeal proposal is a main town centre use and, as there is no sequential test before me to demonstrate that it would not undermine existing centres, I find that the proposal would fail to satisfy Policies CS4 and CS6 of the Core Strategy as well as paragraphs 24 and 27 of the Framework. These seek, among other things, to ensure that new development protects the vitality and viability of existing centres.

Current or future demand for employment uses

8. The appeal site is currently vacant and allocated for employment purposes. The proposed change of use would bring the ground floor unit back into use. Policy CS4 of the Core Strategy sets out that *'land which is currently in use or allocated for employment development will be safeguarded from changes to other types of development, except where: there is no current or likely future demand for employment uses on the land; or where other uses would bring wider regeneration, environmental and amenity benefits'.*

9. A letter from Hansteen Property Investment Limited conveys the difficulties that have arisen in terms of the occupancy and the rental value of the units since they were built out and which have continued since their acquisition. Appreciably, void rates in the trade park have been reduced from 80% in 2011 to 50% since Hansteen took ownership of the trade park. Despite this progress, units do remain vacant in the trade park.

10. It is stated that attempts to lease the site for an office use, despite interest, have not yielded a tenant since July 2015. However, no detailed information in relation to the marketing undertaken is before me. I recognise that it is

difficult to precisely predict the future, but given the site's Primary Industrial Area allocation I am not persuaded on the basis of the limited evidence before me that there is no current or likely future demand for employment uses on the land, especially given the scope of Policy CS4. This policy defines employment uses as those in B1, B2 and B8 use classes, rather than solely B1 for which the site has been marketed.

11. The proposed use may lead to additional footfall and potential interest in other vacant units as a result. However, there can be no certainty that such potential interest would relate to a B1, B2 or B8 employment uses, regardless of the appellant's experience at other sites, or their willingness to accept a condition preventing this case setting a future precedent for the remainder of the trade park. With regards to the latter, I do not consider a condition would be reasonable in respect of paragraph 206 of the Framework as it may place undue constraints on the future operation of the park at odds with extant development plan policy.

12. The proposal would provide a local food and drink outlet for persons working on or visiting the business park, and my attention has been drawn to other Greggs' establishments operating at similar locations across the country. The presence of the appeal proposal may lessen the need for trade park employees to travel to other locations for lunch, but it is far from uncommon for employees to bring lunch to work and there is no evidence before me to suggest that there is significant congestion on local roads at lunch time as people go elsewhere, specifically for food. The proposal would also provide employment opportunities in an area with a higher than average un-employment level, but such a benefit could also be generated if the appeal proposal were located in a town centre.

13. I conclude, therefore, that the proposal has not demonstrated that there is no current or likely future demand for employment uses on the land or that a change of use would provide wider regeneration, environmental and amenity benefits, as required by Core Strategy policy CS4. The proposal would also be contrary to saved Policy EC3 of the Knowsley Replacement Unitary Development Plan (UDP) and paragraph 22 of the Framework. These policies together seek, among other things, to safeguard land used or allocated for employment development from changes to other uses, unless there is no reasonable prospect of the site being used for the allocated employment use.

14. Although the Council refers to saved Policy EC2 of the UDP in the officer report, this policy does not identify the appeal site as one of the listed sites for employment development. Thus, it is does not appear to be directly relevant to this appeal.

Supply of employment land in the borough

15. Given the relatively recent adoption of the Council's Core Strategy, concern is raised by the Council that if this appeal was allowed, then it would set a precedent for the relinquishment of further allocated employment land sites across the borough in the future. As a consequence it would hamper the Council's ability to deliver at least 164 hectares of land to be used for employment uses between 2010 and 2028, in locations such as Huyton Business Park, in accordance with Policy CS4 of the Core Strategy.

16. I recognise it is the appellant's wish not to challenge the Council's policy. However, regardless of current vacancies in the trade park, the proposal would, albeit not significantly, run counter to the objectives of Policy CS4 by introducing a main town centre use into a site allocated for specified employment uses. Even though the appellant does not consider there to be pressure on employment land in the borough, this has not, in my judgment, been sufficiently demonstrated. Furthermore, circumstances may change in future years and the proposal could lead to further applications for changes of use which sit outside the ambit of Policy CS4.

17. The appellant is correct in stating that the proposal would create jobs and re-use a vacant unit. Whilst I appreciate the sentiment of their argument, the development plan has only recently been examined and adopted by the Council. It does, therefore, need time to deliver the planned for employment land in the borough, notwithstanding the willingness of the appellant to accept a condition restricting the use to that applied for.

18. Thus, I conclude that the proposal would adversely affect the supply of employment land in the borough contrary to Policy CS4 of the Core Strategy, saved Policy EC3 of the UDP and paragraph 22 of the Framework. These policies seek to safeguard the supply of employment land, unless there is no reasonable prospect of the site being used for the allocated employment use.

19. For the same reason, as identified above, saved Policy EC2 of the UDP is not directly relevant to the determination of this appeal.

Other Matters

20. Given that neither party has identified any conflict with Policies CS1 and CS2 of the Core Strategy, I have no reason to form a different view. Whilst the appellant also considers the scheme to comply with Policies SUE1 and SUE2 of the Core Strategy, I note that the Core Strategy Proposals Map does not identify the appeal site as land falling under the remit of these policies.

21. Although the appellant considers the Council's stance concerning a potential A1 use to be unreasonable, I have considered the merits of the case against the development applied for.

22. I note that the Council has agreed changes of use for other units on the site for an adult training centre, gym and a non-residential institution. I am not, however, aware of the circumstances in which these permissions were granted and they appear to pre-date current development plan policy. As such, I do not consider that they set a precedent for the appeal proposal.

Conclusion

23. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR