

Appeal Decision

Site visit made on 27 March 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 12 April 2017

Appeal Ref: APP/K2420/W/17/3167902
23C Wood Street, Hinckley LE10 1JQ.

- 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 Mr Daemon Johnson against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 16/00883/COU, dated 24 July 2016, was refused by notice dated 29 November 2016.
 - The development proposed is a change of use to dog day care and grooming centre (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's Decision Notice as this is more succinct than the version provided by the appellant.

Main Issue

3. This is whether the proposed development conflicts with policies in the development plan that seek to retain existing employment land and buildings for employment uses, thereby resulting in an unacceptable loss of employment land.

Reasons

4. The appeal site consists of part of the ground floor to a former factory building on the south side of Wood Street close to Hinckley town centre. The surrounding area comprises a mix of industrial, retail and residential uses. The appeal scheme seeks to change the use of the building from a B1/B2/B8 use to a dog day care centre (*sui generis*). At the time of my visit, it was evident that the change of use has already taken place. The appeal site forms part of a wider 'Category B' employment site that is allocated in the "*Site Allocations and Development Management Policies DPD 2016*" (the SADMP).
 5. Policy 1 of the "*Local Development Framework: Core Strategy 2009*" (the CS) seeks to support Hinckley's role as a sub-regional centre by, *inter alia*, ensuring there is a range of employment opportunities. Amongst other things, Policy DM19 of the SADMP states that proposals for Category B sites will be considered with regards to whether: 1) the building is suitable or capable of being retained for employment purposes; 2) it has been marketed for
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- employment purposes and, 3) the extent of wider public benefits to outweigh the loss of the employment use. According to the Council, the latest "*Employment Land and Premises Review 2013*" (ELR) recommends that 100% of the premises are retained for uses falling within Use Classes B1, B2 or B8.
6. I have considered the appellant's view DM19 is not sufficiently robust. However, the plan and hence policy has been found sound following a thorough examination process and adopted in the last 12 months. It therefore must attract full statutory weight.
 7. The first part to Policy DM19 states that favourable consideration will be given to proposals where the proportion of uses falling outside B1, B2 and B8 use classes stands in line with the recommendations in the most up-to date ELR. However, there is no evidence before me to suggest this would be the case in this instance.
 8. The building's generally poor physical condition, its layout, town centre location and restrictive access and parking arrangements particularly for commercial vehicles means that it is inherently unsuited to some B1, B2 and especially B8 uses. However, the evidence before me does not allow me to go as far to say that the building is no '*longer suitable or reasonably capable*' of being used for any use within the B1 and B2 use class. The first relevant criterion under Policy DM19 is not therefore met.
 9. It is common ground that the building was not vacant for a significant period of time prior to the commencement of the dog day care use. Neither was it marketed for employment purposes. Consequently, the second criterion of DM19 is not satisfied.
 10. Whilst the use falls outside the B1, B2 and B8 use class, it clearly involves an element of employment. According to the Application Form the business has 2 full-time and 2 part-time employees. Although this is modest in the context of employment across the borough, it is nonetheless four more jobs than would otherwise be the case if the building were left vacant. In this regard the development is consistent with the overarching aims of Policy 1 of the CS in terms of ensuring a range of employment opportunities are available.
 11. The use also provides other community benefits in the form of a pet sitting service thus supporting those owners who wish to go out and work. However, whilst these benefits weigh in favour of the development the third criterion of DM19 requires there to be a '*significant community benefit which outweighs the impact of losing the employment site/premises*'. The addition of the adjective '*significant*' implies that the bar that has to be crossed is particularly high. The appellant has not adduced any evidence to suggest there is an over-supply of employment land across the borough and therefore I am not persuaded that the benefits outlined above are sufficient to outweigh the loss of the employment use.
 12. Section 38(6) of the "*Planning and Compulsory Purchase Act 2004*" requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have identified that the development conflicts with a recently adopted development plan policy. Despite some modest economic benefits, there are no material considerations that would outweigh this conflict. I have considered other policies advanced by the appellant in support of his case, including those

in the “*National Planning Policy Framework*”. Nevertheless, I am satisfied for the reasons given above that the proposed development conflicts with the development plan when taken as a whole.

Other Matters

13. Although the Council did not object to the planning application on noise grounds, it has been brought to my attention that complaints have subsequently been received from local residents. However, monitoring is ongoing and the evidence at this stage is equivocal. I do not therefore intend to stray too far into this matter. However, it is pertinent that a degree of noise would inevitably be generated by the established use of the building which presumably given its age operated without a restriction on hours.

Conclusion

14. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

D. M. Young

Inspector