
Appeal Decision

Site visit made on 18 July 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 10 August 2017

Appeal Ref: APP/A1015/W/17/3174317

Former Unit 26, Storforth Lane Trading Estate, Circular Road, Hasland S41 0QQ

- 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 Paul Roberts (Crossfit252 Chesterfield Ltd) against the decision of Chesterfield Borough Council.
 - The application Ref CHE/17/00077/COU, dated 6 February 2017, was refused by notice dated 3 April 2017.
 - The development proposed is described as change of use from light industrial to gymnasium (D2).
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Decision

1. The appeal is allowed and planning permission is granted for a period of 3 years only from the date of this decision for the change of use from light industrial to gymnasium (D2) at Former Unit 26, Storforth Lane Trading Estate, Circular Road, Hasland S41 0QQ in accordance with the terms of the application, Ref CHE/17/00077/COU, dated 6 February 2017, subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period being the period of 3 years only from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Existing Floor Plan.

Procedural Matters

2. The appeal property has been in use as a gymnasium since 2014. The Council dealt with the application as being retrospective. I have no evidence to suggest that the proposed change of use has been otherwise undertaken than in accordance with the submitted plans. I have therefore determined this appeal on the basis of the plans considered by the Council.
3. The supporting information provided with the application sought planning permission for a temporary period of 3 years or on the basis of a personal permission granted to the appellant. I have taken these matters into account in the determination of this appeal.

Main Issues

4. The main issues are:

- The effect of the proposed change of use on the vitality of the town centre and the availability of employment floor space in the Borough.
- The effect of the proposed change of use on highway safety with particular regard to car parking provision.

Reasons

Vitality of town centre and employment floor space

5. The appeal property comprises the end industrial unit of a block of four similar units located on a large employment estate that contains units of various sizes sited predominantly along circular internal access roads. The appellant indicates that the estate was developed in the 1950's. Few units have dedicated parking areas with the consequence that vehicles tend to park in the front of units and along the access roads.
6. The Council's approach to vitality of centres and the location of health related uses is set out in Policy CS15 of the Chesterfield Local Plan: Core Strategy 2011–2031 (2013) (CLPCS). This policy, amongst other things, encourages health related uses to be located in defined centres. The Storforth Lane Trading Estate is an allocated employment site and Policy CS13 of the CLPCS does permit other business and industrial uses not falling within the B1, B2, B8 Use Classes to be located on employment sites subject to certain circumstances. These circumstances are the locational criteria set out in Policy CS2 of the CLPCS, which requires consideration of the need to serve a location catchment or make functional links to existing uses, the suitability of the use for the location and the employment generation of the proposed use when compared to the existing or previous use.
7. Saved Policy EMP7 of the Replacement Chesterfield Borough Local Plan (2006) (RCBLP) also allows for uses outside of B1, B2 and B8 on existing business and industrial areas subject to the consideration of the employment generating potential of the alternative use. In addition this policy also states that major commercial leisure uses will not be allowed unless ancillary to the main industrial or business activities and will not lead to a qualitative or quantitative deficiency in employment land or would inhibit existing or future business activity.
8. In order to consider the availability of alternative premises within centres in the Borough the appellant has provided a Sequential Assessment. This focusses on premises having between 1500sq ft and 5000sq ft of floor space, as the current unit has approximately 3000sq ft of floor space, and with rental levels above £20,000 per annum being discounted due to affordability as the appellant indicates that the current gymnasium provides a turnover of less than £40,000 per annum. Given the turnover of the business and the size of the current premises, I consider that floor space and rental thresholds adopted in the Sequential Assessment to be appropriate in this case.
9. The Sequential Assessment and a further submitted supplementary assessment demonstrate that there are no suitable sequentially preferable premises available within centres in the Borough. Although the Council dispute the

findings of the Sequential Assessment and indicate that there are other premises within the Chesterfield Sites and Premises Guide that could potentially be used I have no evidence to indicate where these may be or how they would be suitable. The appellant's evidence suggests that these may relate to one property that had been discounted due to its size and another discounted as it would involve the sub-division of a unit. The Council has also referred to a unit at the Lockford Trading Park as being suitable although this was discounted in the Sequential Assessment on the grounds of rental cost and the suitability of the unit for B1, B2 and B8 uses given that it is a more modern unit than the one which is the subject of this appeal. I do not consider that the appellant's consideration of these factors in the Sequential Assessment to be unreasonable.

10. In the absence of any other conclusive evidence to the contrary, I find that the Sequential Assessment demonstrates that there are no suitable sequentially preferable premises currently available within centres in the Borough.
11. The Council indicate that there is a high demand within the Borough for units of between 500 sq ft and 3000 sq ft and that a 3 month void period was an insufficient length of time in which to conclude that there were no other appropriate businesses that could have occupied the building. The appellant indicates that in 2014, when the letting of the unit to the appellant was agreed, a total of 11 enquiries were received in relation to units on the Storforth Lane Trading Estate. Of these, seven required a unit of less than 1000 sq ft, two were car repair businesses that relocated elsewhere and one required a unit of 5000 sq ft with the only other enquiry being the appellant.
12. Although I have no reason to dispute that there is a high demand for units between 500 sq ft and 3000 sq ft within the Borough, I agree with the appellant that there is no evidence of any locational or other factors that may suggest that such demand related to the Storforth Lane Trading Estate. As the estate as a whole is included within the Council's Sites and Premises Guide, I also agree that it is effectively subject to continual marketing.
13. I have no other conclusive evidence to suggest that there is a specific demand for units of this size on the estate at the current moment in time. I observed at my site visit that there are a number of vacant units within the estate of similar size to the appeal property. Whilst I accept that the locational demand for units could change in the future, I have no available conclusive evidence in this appeal to suggest that there is a defined demand for units of this size on the estate.
14. I have taken into account the fact that the previous use of the unit employed one person as a B8 car storage use and that gymnasium currently employs 3 persons. I also give moderate weight to the fact that the use has operated for over three years and provides a facility for employees on the estate and the local community. I agree that there is some synergy between the proposed use and the existing uses by providing social and economic benefits of health related lifestyle opportunity close to places of employment.
15. Taking the above factors into account, I have found that there is insufficient evidence to suggest that the Sequential Assessment is fundamentally flawed or that there is a current demonstrable demand for units of this size and in this location. The proposed use generates more employment than the previous and it does not inhibit existing or future business activity.

16. For these reasons, I find that the proposed change of use would not have a negative impact on the vitality of the town centre or have a detrimental effect on the availability of employment floor space in the Borough. However, this is on the basis of the available evidence at the current moment in time. I recognise that these circumstances are subject to economic change and that the Council's preferred approach to the location of such uses is in town centres and thereby not permanently occupying employment sites for which there may be a future demand.
17. Consequently, a 3 year temporary permission, as suggested by the appellant, would be reasonable in this case to enable future consideration of demand and thereby avoiding the permanent use of the unit for purposes other than uses falling within the B1, B2 and B8 Use Classes. As such, on the basis of a temporary planning permission only, there would be no substantial conflict with Policies CS1, CS2, CS13 and CS15 of the CLPCS or Saved Policy EMP7 of the RCBLP.

Highway safety

18. Although the Council suggest that D2 uses should provide one parking space per 25sq m, it is clear that such dedicated space could not be accommodated in the proximity of the unit. Due to its configuration, the estate has a whole does not provide any substantial dedicated parking to serve the units. Instead parking occurs on the internal roads and outside of the units. I observed at my site visit that the estate is able to contain the required parking demand without any on-street parking occurring on the public highway in the vicinity or compromising any visibility at internal road junctions within the estate or at the junction with Storforth Lane.
19. Given that some members of the gymnasium are from persons employed on the estate and the close proximity of the unit to the local community, thereby providing an opportunity to walk or cycle, I do not consider that the demand for car parking is likely to be of a level that could not be accommodated within the confines of the estate. Moreover, the higher demand for the use of the gymnasium is likely to be outside of the normal working hours of many of the businesses on the estate and therefore at a time when car parking availability is more plentiful.
20. I note that the Council's Highway Engineers raised no objections to the proposal on highway or pedestrian safety grounds. Although there are no dedicated footpaths on the estate the internal roads are sufficiently wide to avoid pedestrian and vehicular conflict. In addition, owing to the configuration of the estate, vehicular speeds appear to be low.
21. Taking these factors into account, the proposal would not have a demonstrable detrimental effect on highway or pedestrian safety. As such, there would be no conflict with Policy CS20 of the CLPCS. This policy, amongst other things, requires that development should maximise the use of walking, cycling and the use of public transport through parking provision and prioritise cycle and pedestrian access.

Other matters

22. I have taken into account the appellant's suggestion of a personal permission. However, this would involve the use of the unit as a gymnasium occurring for

an undetermined period. This would compromise the ability of the unit to be used to meet any future B1, B2 and B8 Use Class demand throughout such undetermined period and undermine any future opportunity to relocate the D2 use to a town centre location in accordance with Policy CL15 of the CLPCS. Consequently, a personal permission would not be appropriate in this case.

Conditions

23. For the reasons outlined above a condition is necessary to limit the duration of change of use to a temporary period of 3 years only for the date of this decision. I consider it necessary to impose a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty

Conclusion

24. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed on the basis of a 3 year temporary planning permission only.

Stephen Normington

INSPECTOR