



Appeal Decision

Site visit made on 17 June 2019

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2019

Appeal Ref: APP/E0915/W/19/3220146

11 The Old Brewery, Craw Hall, Brampton, Cumbria CA8 1TR

- 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 Douglas Bowman against the decision of Carlisle City Council.
 - The application Ref 18/0359, dated 10 May 2018, was refused by notice dated 26 November 2018.
 - The development proposed is change of use of former gym to warehouse/retail shop.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of former gym to warehouse/retail shop at 11 The Old Brewery, Craw Hall, Brampton, Cumbria CA8 1TR in accordance with the terms of the application, Ref 18/0359, dated 10 May 2018, subject to the following condition:
 - 1) The retail unit hereby permitted shall be used for the sale of builders and plumbers merchants materials; floor coverings; DIY and garden centre goods; furniture; furnishings; garden equipment; cycles; electrical and gas goods; camping goods or leisure goods; office furniture, equipment and office stationery; for the sale of pets and pet supplies; and for no other purpose within Class A1 of the Schedule to the Town and Country (Use Classes) Order 1987 or any other Order revoking or re-enacting that order.

Application for costs

2. An application for costs was made by Mr Douglas Bowman against Carlisle City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the description of the proposal in the banner heading above from the Council's decision notice as this has been agreed by the parties. The change of use to a warehouse/retail shop has already occurred and I am therefore considering this appeal retrospectively.
4. Part 18 of the planning application form states the existing gross internal floor area of No 11 is 72sqm and within Class A1 (shop) use. A different floor area of 225sqm is given in Part E of the appeal form. With reference to the consultation response from Cumbria County Council Highways Authority, it is

this figure was that used in the Council's consideration of the application. Accordingly, I also rely on that same figure.

5. The Council's first reason for refusal refers to the requirement for the sequential test. It is clear from the evidence before me that a sequential test was undertaken and the issue between the parties is whether flexibility has been demonstrated. I have therefore determined the appeal on this basis.

Main Issues

6. The main issues are:

- whether the sequential test has been satisfied, with regard to the requirement to demonstrate flexibility; and
- whether the development provides adequate car parking.

Reasons

Sequential Test

7. The appeal site comprises a unit (No 11) forming part of the Old Brewery Yard, a small commercial and employment area just outside Brampton. The proposal is for the change of use of No 11 from its former gym use to a warehouse/retail use for occupation by a furniture retailer.
8. It is agreed by all parties that the appeal site is in an out-of-centre location being at least 330m from Brampton's Primary Shopping Area. A sequential test should apply to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date development plan. The National Planning Policy Framework (the Framework) says at paragraph 86 that 'main town centre uses should be located in town centres, then in edge-of-centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out-of-centre sites be considered'.
9. Paragraph 87 of the Framework goes on to say that applicants should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre sites are fully explored. No indication as to what degree of flexibility is required is contained in the Framework.
10. The Sequential Test undertaken on behalf of the appellant (November 2018) assesses six existing units, five identified by the appellant and a further unit suggested by a third party. Combined units 5D, 5E and 5F and Unit 1 at Townfoot Industrial Estate are some 600m+ from Brampton's Primary Shopping Area and I am therefore satisfied that they are no more accessible or well connected to the town centre than the appeal site. Having regard to paragraph 86 of the Framework, they are not sequentially preferable.
11. Four units have been assessed in Brampton's Primary Shopping Area. The appellant's evidence is that since the Sequential Test was undertaken, a lease has been agreed in respect of the former restaurant at 23-25 Market Place and it is therefore no longer available. I have no evidence before me to the contrary.
12. The units at 16 Front Street, 2 Market Place and 27 Market Place have been discounted on the basis of their suitability. The Planning Practice Guidance

(PPG) provides a checklist of considerations that should be taken into account in determining whether a proposal complies with the sequential test. This includes asking decision-takers to consider whether there is scope for flexibility in the format and/or scale of a proposal, making it clear that it is not necessary to demonstrate that a potential town centre or edge-of-centre site can accommodate precisely the scale and form of development being proposed.

13. The appellant has thoroughly assessed all alternative units identified or put to them, irrespective of size. They have further considered whether the arrangement of the units over multi-levels allows sufficient accessible floorspace for the range of bulky goods they sell to be accommodated. Whilst the Council suggest a lack of clear information as to the type and range of goods sold, I saw from my site visit that a high proportion of the goods are bulky including large dining tables, dressers and cabinets. Having regard to the real world in which retailers operate, these cannot be reasonably located on upper levels, particularly where stair access is constrained. Further, although the appellant does not explicitly consider whether the proposal could be provided in one or more buildings, there is no requirement in the Framework or PPG to disaggregate a proposal.
14. On this basis, I find that the appellant has demonstrated sufficient flexibility on format and scale and that the proposal could not realistically be located within any of the units assessed. They are not suitable. Consequently, there is no conflict with the Framework or Policy EC6 of the Carlisle District Local Plan 2015-2030 (2016) (LP) because the sequential test has been satisfied.

Parking Provision

15. LP Policy IP3 states that 'where appropriate, proposals for new development will be expected to provide a minimum number of parking spaces per new dwelling/m² of floorspace depending on the type and location, in consultation with the Local Highway Authority and in accordance with any local standards in operation'. Annex A of the Cumbria Development Design Guide (2017) (the Design Guide) provides guidance that 1 space per 30sqm gross floor area should be sought for individual shops subject to site specific considerations and other material considerations. Cumbria County Council Highways Authority advised during the application that based on a gross internal floorspace of 225sqm, the proposal would require 8 car parking spaces, 1 disabled space, 1 motorcycle and 2 cycle spaces.
16. There is a small area of forecourt car parking to the front of No 11 on Craw Hall. This forecourt is, however, narrow and tapers towards the corner of Millfield. I saw on my site visit that there is insufficient space to park more than one car parallel to the building and still allow space for loading and unloading. This space could be used by disabled visitors. Parking perpendicular to the building would result in cars overhanging the footpath on Craw Hall, as seen with parking associated with the adjoining unit which has been clearly differentiated through signage and a bollard.
17. Further car parking is available to the rear of No 11 in a courtyard area that is shared with other occupiers of the Old Brewery Yard. There is disagreement between the parties about the number of cars that could physically be accommodated within the courtyard. I note that there are physical constraints within the forecourt such as fire escapes and loading bays that mean that all of the spaces identified by the appellant on the 'Proposed Parking for Flood and

Development Management' drawing would not be accessible. There are, however, communal spaces that are available to all tenants of Old Brewery Yard which could be used by customers of No 11. The acceptability of the use of these spaces has been confirmed in principle by the landlord and the appropriate use by tenants could be managed. It is only a short distance between the courtyard and the entrance to No 11 and customers would therefore reasonably walk between the two, if only visiting to browse the stock. I appreciate, however, that given the bulky nature of stock I saw on my visit, if customers were to take purchases away, practically loading would need to occur to the front of No 11 and there is space to do so.

18. On-street car parking is also available on both Craw Hall and Millfield close to No 11 and I observed a moderate level of capacity on my site visit despite the double yellow line restrictions in place. Although I do have sympathy with the adjoining occupier in respect of pressure on, and use of, available spaces, this parking is available for all road-users and not reserved for individual tenants or occupiers.
19. I have had regard to the most recent response from Cumbria County Council Highways Authority that the absence of adequate on-site parking would be to the detriment of the free flow of traffic and highway safety. However, from what I saw on my site visit in terms of the availability of both on-street parking and the communal courtyard parking, I am not persuaded that the shortfall in parking provision associated with the proposal would be to the significant detriment of existing road users, including existing occupiers and visitors of the Old Brewery Yard. Further, it would not be to such an extent to cause harm to highway safety.
20. No 11 benefits from an extant planning permission for B1/B2/B8 uses (ref. 16/0775). This is a fall-back position to which I must have regard, particularly as there is more than a theoretical possibility that the unit would be occupied by a B Class use. The minimum parking standards at Appendix 1 of the Design Guide are higher for Class B1 and B8 uses at 1 space per 25sqm gross floor area than for an individual shop. They are, however, lower for a Class B2 use at 1 space per 50sqm. I accept therefore that the fall-back position is that a Class B1 or B8 use could occupy the unit who would, on the pure application of those parking standards, require marginally more parking spaces than the proposal before me.
21. Further, a retail use will by its nature be visited regularly by customers throughout the day who will make short visits to view and/or collect furniture. The consequence is frequent parking manoeuvres and therefore a churn of available spaces. This is a different pattern to that associated with a Class B1 or B8 use where parking would be attributed mostly to staff coming and going in the morning and evening. They would therefore be parked for much of the day. A Class B8 warehouse use in particular could also generate frequent movements associated with loading and unloading of goods. This would have a greater impact on the displacement of other tenants and visitors to the Old Brewery Yard than the proposed retail use. As a consequence, I find the fall-back position is more harmful than the appeal before me and I therefore afford it significant weight.
22. For the reasons above, I find that although there would be a conflict with LP Policy IP3 because the proposal fails to provide the minimum parking

standards, the site specific characteristics and the fall-back position are material considerations that outweigh that conflict. There would further be no conflict with the guidance in the Framework because there would be no unacceptable impact on highway safety.

Other Matters

23. An interested party has raised an objection to the proposal on the basis of the loss of a unit within a Primary Employment Area (PEA). This matter was not raised by the Council as an objection within the reason for refusal. LP Policy EC2 provides sufficient flexibility to allow for non-employment generating uses outside the Class B uses in PEA's where appropriate. Having regard to the former gym use of No 11 which is a non-B Class use and for the reasons above, I am satisfied the proposals are of an appropriate scale and nature. I saw from my site visit that the retail use adds to the attractiveness of the Old Brewery Yard adding to the existing mix of uses and providing interest to the Craw Hall frontage. I therefore find no conflict with LP Policy EC2.

Conditions

24. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. As the change of use has already occurred, it is not necessary to apply the standard time condition for implementation or require compliance with the submitted plans. Further, for the reasons given, I have found delivery and parking arrangements acceptable and it is not therefore necessary to submit and approve further details in the form of the Business Management Plan suggested by the Council.
25. For reasons of certainty as to the nature of goods that can be sold from the unit, I agree however that it is necessary to impose a bulky goods condition as suggested by the Council.

Conclusion

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

R. Jones

INSPECTOR