
Appeal Decision

Site visit made on 4 June 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2019

Appeal Ref: APP/C1625/W/18/3214940

Plot G Stonehouse Business Park, Sperry Way, Stonehouse GL10 3UT

- 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 Robert Hitchins Ltd against the decision of Stroud District Council.
 - The application Ref S.18/0104/FUL, dated 20 December 2017, was refused by notice dated 3 August 2018.
 - The development proposed is the construction of a coffee shop with drive through facility with associated access road, car park, landscaping and infrastructure works; and construction of 42 space car park for neighbouring employer use with associated access road, landscaping and infrastructure works.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a coffee shop with drive through facility with associated access road, car park, landscaping and infrastructure works; and construction of 42 space car park for neighbouring employer use with associated access road, landscaping and infrastructure works at Plot G Stonehouse Business Park, Sperry Way, Stonehouse GL10 3UT in accordance with the terms of the application, Ref S.18/0104/FUL, dated 20 December 2017, subject to the conditions set out in the attached Schedule.

Main Issue

2. The main issue is whether the appeal site represents an appropriate location for a coffee shop with a drive through facility having regard to national and local policies.

Reasons

3. The appeal site lies within Stonehouse Business Park, a key employment site identified by policy EI1 of the Stroud District Local Plan, 2015 (LP), which seeks to retain such sites for B Class Uses. Whilst the proposal would not constitute a B Class Use, there is no dispute between the parties that a coffee shop ancillary to the business park could increase the attractiveness of the safeguarded employment area. It follows that such a development would support the economic development objectives of the policy.
4. Policy EM1 of the Stonehouse Neighbourhood Development Plan, 2017 (NP) also seeks to protect local employment sites, such as the appeal site, for B Class uses. However, it supports alternative uses where it can be demonstrated that the use of a site solely for B Class uses is no longer viable, through an

active 12 month marketing exercise. In addition, the policy is supportive of complementary ancillary uses which improve the attractiveness of the employment sites for occupiers and commercial activity.

5. The evidence¹ provided by the appellant outlines that marketing commenced in 2002, with marketing boards, brochures, web-site information and mailshots having been utilised regularly since 2006. However, it is clear that this longstanding active marketing exercise that has not resulted in the appeal site being taken up in a B class use. Moreover, the Council has not provided substantive evidence to support its assertion that there is a reasonable prospect of the uptake of the site for a B class use. Therefore, the proposal is unlikely to prevent an employment development within a B class use from coming forward and meets with the marketing requirement of policy EM1 of the NP.
6. The Council's main concern is that the appeal proposal would fail to function as a complementary ancillary use to the Stonehouse Business Park, primarily due to the drive through element of the scheme. Nevertheless, they appear to accept that without this element the development would otherwise operate in accordance with the objectives of the development plan policy. Furthermore, there is no dispute between the parties that the drive through element is satisfactory in terms of the impact on highway safety. Accordingly, the Council infer a link between the provision of the drive through facility and the number of customers that would be unconnected with the nearby business parks.
7. The intended operator of the coffee shop is an established commercial business. The customer survey information provided² indicates that at an operational coffee shop with a drive through at Sutton Business Park near Reading, most of the trade originates from customers using the surrounding employment sites. As this example is located near to other business parks and close to the principal road network, it provides a reasonable comparison with the characteristics of the appeal proposal and supports the view that the bulk of trade would be from such customers. Moreover, I have not seen evidence to support the Council's assertion that most sales would come from customers making journeys to and from the M5 junction otherwise unconnected with the employment sites.
8. Furthermore, the intended operator's experience of running coffee shops with drive through facilities suggests that between 30-40% of the visitors to the outlet use the drive through. When this is combined with the other survey information provided, the pattern of customer trips and method of travel is complex. It could not be said with certainty that customers likely to use the drive through would be primarily unconnected with the surrounding business parks. Equally, those using the walk-in facilities would not be confined to customers associated with nearby business parks. Therefore, both walk-in and drive through facilities appear likely to serve both types of customers.
9. Furthermore, the limited provision of refreshment facilities in the vicinity combined with the proximity of the development to several nearby key employment sites, supports the likelihood that a significant proportion of trade would come from customers associated with such sites, irrespective of whether they choose to use the drive through or not.

¹ Letter from Alder King dated 6 February 2018

² Survey Evidence Report October 2018

10. Neither policy EI1 of the LP or policy EM1 of the NP define what constitutes a complementary ancillary use. It would be unrealistic, given the generally limited hours of operation of the surrounding employment sites in the evenings and weekends, to expect a coffee shop not to have any unconnected trade whatsoever. This need not preclude it from operating in an ancillary manner to the business park overall, it is a question of degree. Whilst I readily accept that a proportion of custom would be unrelated to the use of the wider business park, the evidence before me does not support the view that such custom would comprise the bulk of the proposed development's trade.
11. The Council assert that the proposed 32 car parking spaces to serve the coffee shop is more than is necessary, and suggests it reflects that the development would not be wholly ancillary to the business park. However, due to the distances involved and nature of the surrounding road layout, many employees and visitors to the employment sites would be car based. As such, it is likely that customers connected with the surrounding employment sites would use their car to visit the appeal proposal. In any event, the Highway Authority state that the provision of 32 vehicle spaces falls slightly below the level normally required for a development of the size proposed.
12. I am referred to recent appeal decisions³ at a nearby district whereby major mixed use proposals were dismissed. I concur with the Inspector's general finding that non B1 uses and associated jobs, can assist in an overall employment strategy and in making safeguarded employment areas more attractive, so long as the balance of uses is appropriate. Otherwise, as the decisions related to much larger proposals and were considered against a different policy, they are of limited relevance to the scheme before me.
13. Accordingly, I find that the appeal proposal would be an appropriate location for the development and would constitute a complementary ancillary use to the surrounding key employment sites. Therefore, the proposed development would not conflict with policies EI1 of the LP and EM1 of the NP insofar as, taken together and amongst other matters, they seek to safeguard employment sites. Although not included in the decision notice, the Council also refers to Policy EM3 of the NP. As this sets out criteria for supporting small to medium sized enterprises it appears to have little relevance to the circumstances of the appeal proposal and I do not find that the development would conflict with it.

Other matters

14. The site is outside, but close to, the boundary with the Industrial Heritage Conservation Area (IHCA). The significance of the IHCA is derived primarily from the historic commercial activity associated with the Stroudwater Navigation Canal. The modest scale and separation distance maintained by the appeal proposal is such, that I concur with the Council's conclusion that it would have no impact on the significance of the IHCA, and therefore would avoid harm to the significance of this designated heritage asset.
15. I have had regard to comments regarding the level of traffic associated with the A419 and relative lack of public transport available in the environs of the site. Be that as it may, the appeal site relates to an existing commercial location, and is of a relatively limited extent. Consequently, the proposal would

³ Reference APP/B1605/W/18/3200395 & APP/B1605/W/18/3214761

not lead to significant impacts on the transport network in terms of capacity and congestion and would not conflict with the Framework (paragraph 108 (c)) in this regard. Moreover, conditions are attached that address highway safety aspects of the scheme. Accordingly, these considerations do not materially weigh against the proposal.

Conditions

16. There were 15 conditions suggested by the Council. In addition to the statutory three year period for commencement, I consider that it is necessary in the interests of clarity to specify the approved plans and that the development should accord with them. Furthermore, I accept that in the interests of the appearance of the area, the planting proposals should be implemented reasonably promptly.
17. The proposal includes a 42 space car park intended to serve neighbouring employment uses within the Stonehouse Business Park. The Council accept this would support economic development and assist in preventing overspill parking to the highway. As such, it is appropriate to restrict the use of the private car park accordingly, which is the purpose of condition 4.
18. As several of the suggested conditions relate to the provision and retention of transportation facilities necessary to assist highway safety and sustainable travel, I have amalgamated them into fewer conditions. However, two conditions referred to the provision of pedestrian crossings and it was not clear whether these were duplicated or referred to different crossing points. Based on the evidence provided only one pedestrian crossing point across Sperry Way would be proportionate and necessary to serve the proposal, the specific location should be agreed in writing prior to the occupation of the building.
19. Paragraph 55 of the National Planning Policy Framework (the Framework) advises that planning conditions should be kept to a minimum and only imposed where they meet the tests set out. Based on the limited transportation evidence provided, I am not persuaded that the suggested conditions relating to a delivery management plan, relocating gulleys and junction protection marking are necessary or reasonable in relation to the scale of the development. Nor is it clear why some of these matters would not be more appropriately safeguarded through more specific legislation. Accordingly, I consider that these conditions do not meet the tests set out in the Framework.
20. Planning Practice Guidance (PPG) advises that pre-commencement conditions, such as that suggested in relation to the Construction Method Statement, should only be used where they are so fundamental to the development permitted it would have been otherwise necessary to refuse the whole permission. The evidence does not suggest that a development proposal of this relatively modest scale would result in a highway safety concern, even during construction. Consequently, the necessity of the suggested condition has not been demonstrated in this case.

Conclusion

21. For the reasons given above, I conclude that the appeal should be allowed.

Helen O'Connor Inspector

Schedule of conditions (7 conditions)

- 1) The development hereby permitted shall begin not later than 3 years 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 5928/PL10; Existing Site Layout 5928/PL11; Proposed Site Layout 5928/PL12; Proposed Floor Plan 5928/PL13; Proposed Elevations and Sections 5928/PL14; Soft Landscape Proposals 17111.101 Rev F; Schematic Drainage Layout 11966 DR-1 P6; Schematic Plan Layout 17.1096.00B and Electrical Services External Lighting S1 SHP-HYD-XX-XX-DR-E-9000 P04.
- 3) All planting, seeding or turfing shown on drawing 17111.101 Rev F shall be carried out in the first complete planting and seeding seasons following the occupation of the building, or the completion of the development to which it relates, whichever is the sooner. Any trees or plants which, within a period of five years from the completion of the development die, or are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 4) Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and/or re-enacting those Orders with or without modifications) the 42 space car park for employment purposes shown on drawing 5928/PL12 shall not be used other than as a car park to serve the Stonehouse Business Park, and should not be used for any other purpose.
- 5) The first 20 metres of the proposed access road, including the junction with the existing road and associated visibility splays, shall be completed to at least binder course level prior to the commencement of the development of the proposed buildings and infrastructure works hereby permitted.
- 6) The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measures from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 34m distance in both directions (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter retained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.26m and 2.0m at the Y point above adjacent carriageway level.
- 7) The building hereby permitted shall not be occupied until the following have been provided:
 - a) Vehicular parking and turning and loading/unloading facilities in accordance with drawing 5928/PL12.
 - b) At least 2 electric vehicle charging points within the 42 space private car park for employment purposes shown on drawing 5928/PL12.
 - c) Secure and covered cycle storage for at least 8 bicycles as shown on drawing 5928/PL12.

d) Cycle stands (such as Sheffield stands or similar) for at least 4 bicycles located close to the pedestrian entrance, the location of which shall previously have been agreed in writing with the local planning authority.

e) A dropped kerb and tactile paved pedestrian crossing across Sperry Way in a location previously agreed in writing with the local planning authority.

Thereafter these facilities shall be retained.