



Appeal Decision

Site visit made on 8 January 2020

by Mr J P Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2020

Appeal Ref: APP/Y0435/W/19/3237925

The Ro 24, Unit 17, Twizel Close, Stonebridge, Milton Keynes MK13 0DX

- 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 Mario Gol-shecan against the decision of Milton Keynes Council.
 - The application Ref 19/01810/FUL, dated 12 July 2019, was refused by notice dated 6 September 2019.
 - The development proposed is to use 50% of the space for brewing and the rest as a tap house under Class A3 to allow customers to eat and drink.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant has stated firmly that he is applying to use half the building for a use in Class A3 of *The Town and Country Planning (Use Classes) Order 1987* (as amended) (the Order), namely a restaurant/café. It would also include a small shop, but this, I assume, would be ancillary. Therefore, notwithstanding the appellant's description of the intended operation and the Council's view that it falls within Class A4 of the Order (a public house, wine bar or other drinking establishment), I have considered the proposal as including a use in Class A3. However, I am not aware that this has had an appreciable bearing on my reasoning.

Main Issues

3. The main issues in this case are
 - a) whether the proposal would undermine the vitality of the town centre
 - b) its effect on existing employment land and premises and
 - c) its effect on car parking.

Reasons

Town centres

4. The proposal is to use half of this commercial property, which sits on an industrial estate, as a restaurant/café in connection with a specialist microbrewery that operates opposite at Unit 23. The remainder of the floorspace would be used for brewing.

5. Policy DS4 in *Plan:MK* seeks to grow and develop the Borough's retail, leisure and entertainment offer, with main town centre uses developed within town centres. However, I see nothing in this policy that explicitly seeks to resist such development outside town centres, and I have no specific evidence to show harm would be caused in this regard by the conversion of this one unit.
6. Accordingly, on the evidence before me I have no reason to find that the proposal would harm the vitality of town centres or conflict with Policy DS4 in *Plan:MK*.

The effect on existing employment land and premises

7. Policy ER5 in *Plan:MK* seeks to protect small business units with a gross external floorspace of no greater than 300sqm by resisting the change from Class B of the Order. The scheme would be contrary to this policy as the building's *external* floorspace [my emphasis] is under 300sqm and half of it would be taken out of a use in Class B. As such, it would undermine the pool of such units in the City.
8. *Plan:MK* Policy ER2 seeks to protect existing 'employment land and premises'. The appellant has argued that this proposal will be an employment use in that it will employ probably more staff than if the unit were to be used for storage in Class B8 of the Order. I do not question that the A3 use will employ people. However, although I was given no definition of the 'employment land and premises' to which the policy refers, the supporting text to Policy ER2 makes it clear that it excludes retail uses. The proposal can be reasonably considered to be one such retail use as it is within Part A of the Order. This concern is no doubt to safeguard the industrial floorspace and similar across the City from the encroachment of retail activities.
9. With the loss of part of this unit I therefore consider that the proposal would result in a significant reduction in the employment opportunities that the policy seeks to safeguard. I also have no reason to find that the existing operation causes any detrimental environmental impact that the scheme would allay. It is the appellant's contention that the associated microbrewery cannot operate in premium space but has to be in an industrial estate. The inference is that this associated Class A3 element has to be located nearby and so cannot be satisfactorily accommodated other than in an employment area. Whilst I can appreciate the benefits for the operator of the brewery and the proposal being in close proximity, it does not follow that this new Class A3 use can only be accommodated in this employment area. In any event, there is no mechanism before me to tie the operation of Unit 17 to that at Unit 23 and so it could be taken over by a different occupier in the future and operated independently.
10. The proposal would therefore conflict with Policy ER2 Section A. Moreover, the appellant has not shown that any circumstances in Section B are applicable.
11. In coming to this view, I accept that across the City's designated employment land and premises there might well be various non-industrial operations. I am unaware though of the background to any of these that are retail uses. Furthermore, as Policy ER2 specifically refers to only retail uses, operations such as gymnasia and other leisure activities that fall outside Part A in the Order would not necessarily be considered in the same policy context. The presence of other uses therefore does not lead me to different findings.

12. Finally, I accept that the introduction of a Class A3 use of this size would be at odds with the industrial character of the surroundings, although I am not satisfied that harm in this regard would result as a consequence.
13. Accordingly, I conclude that the proposal would conflict with *Plan:MK* Policies ER2 and ER5 as it would result in the partial loss of a small business unit and the partial loss of employment premises within the meaning of Policy ER2. As such it would undermine the employment opportunities offered by this industrial estate.

Highway safety

14. When I visited in the mid-morning on a weekday there appeared to be a high demand for parking across this industrial estate, with most spaces dedicated to individual units being occupied and a significant amount of kerbside parking as well. Although this was only a snapshot in time, I have no reason to consider it did not broadly reflect the general parking situation.
15. The precise parking demands for the unit were not specified by the Council as it was dependent upon how the unit was eventually split. However, whether I apply the adopted standards for Class A3 or for Class A4, it is reasonable to assume that the number of people the proposal could attract to the site would increase when compared to its existing industrial use. The appellant placed great weight on custom being drawn from staff at surrounding units and so contended it would not generate additional parking pressure. However, there is no certainty that would occur, especially as the unit would emphasise the individual character of the brewery. Moreover, the size of the estate means staff could well drive here on the way home for example, or meet with others who have travelled from elsewhere, thereby creating parking demands around the site. In any event, the permission would run with the land and so if, for whatever reason, the premises were taken over by another occupier in the future, they could well choose to operate in a different manner.
16. The Council said that at least 12 spaces were required, and, as a customer seating area of 165sqm would be provided over 2 floors, then in the light of the above I have no reason to favour a lower figure whether the use be in Class A3 or Class A4. In response, the appellant has said there is already a tap room at Unit 23 but that is much, much smaller and so I consider its impact is not comparable. He has also highlighted a number of parking spaces that could be used by customers, only 3 of which are within the curtilage of Unit 17. Of the others, the 2 in front of Unit 23 no doubt cater for the demands of that unit, and so cannot be used to address the needs of the appeal property. The other 4 parking places shown all lie outside the application site and I am unaware as to how their dedicated retention for this proposal will be controlled or how customers will know of their availability. In any event, the spaces at the end of the cul-de-sac appeared to be already allocated to the brewery and so presumably serve Unit 23. Therefore, I consider the spaces outside the application site cannot be assumed to be capable of addressing any necessary demand. Consequently, given the level of parking I noted in the vicinity on my visit, I consider that the shortfall in dedicated parking provision is likely to result in harm to highway safety.
17. Elsewhere in Milton Keynes, uses might have been accepted with a little or no parking. I am unclear as to the implications of the site being in Parking Accessibility Zone 3 (PAZ3) or how that zoning is designated, and I am

unaware of the reasons why apparently different standards were applied to the PAZ3 sites in Wolverton Park cited by the appellant (although I note those decisions pre-date the adoption of *Plan:MK*). In town centres and similar though I accept that the highly sustainable nature of the location means on-site parking is unlikely to be justified, but this use seems more remote from housing and I have little information concerning public transport linkages. On the evidence before me I consequently find there is a strong likelihood of custom arriving by car. In this instance I therefore see no mitigating circumstances that justify a level of parking provision below that given, no doubt as a maximum, in the Council's adopted standards.

18. Across the estate there are cycle stands that do not appear to be attributed to specific units but are available for all users. At the time of my visit they were little used. I consider any demand for cycle parking could be satisfied by these.
19. Accordingly, on the evidence before me I conclude the lack of dedicated parking means the development would adversely affect highway safety, in conflict with *Plan:MK* Policy CT10.

Other matters

20. The appellant states that the microbrewery reflects national and local policy by having strong environmental credentials. He also notes the emphasis in national guidance on the promotion, expansion and support for business and employment. I do not question any of these points. However, to my mind the benefits they offer do not outweigh the harms identified above.
21. Although the premises have been given a licence, that is granted under separate legislation and different criteria and so does not mean planning permission should be forthcoming.
22. It was said the refusal prevented the creation of employment and the sense of community from being established. However, I am unclear as to why this would result in a conflict with the principal of human rights, or indeed whose rights would be affected. The need for a community hub on this estate has not been shown, and any benefits from creating one does not justify the harm in the light of my stated concerns. By opening when other units were closed it was said there would be security benefits, but the need for this has not been demonstrated.

Conclusions

23. For the reasons stated I conclude the appeal should be dismissed.

J P Sargent

INSPECTOR