The Planning Inspectorate

Appeal Decision

Site visit made on 27 January 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2020.

Appeal Ref: APP/N1920/W/19/3237865
Lismirrane Industrial Park, Unit 1, Elstree Road, Elstree WD6 3EE

- 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 Ricky Sharma of ERR Ltd against the decision of Hertsmere Borough Council.
- The application Ref 19/0978/FUL, dated 21 June 2019, was refused by notice dated 30 August 2019.
- The development proposed is for the change of use from light industrial Class B1(c) use to Class D1 use training centre.

Decision

1. The appeal is allowed, and planning permission is granted for the change of use from light industrial Class B1(c) use to Class D1 use training centre at Lismirrane Industrial Park, Unit 1, Elstree Road, Elstree WD6 3EE, in accordance with the terms of the application, Ref 19/0978/FUL, dated 21 June 2019, subject to the following conditions.

    1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.

    2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: 1245PL-RDT-ZZ-00-DR-A-0400_PL1; 1245PL-RDT-ZZ-00-DR-A-2100_PL1; 1245PL-RDT-ZZ-01-DR-A-0401_PL1; 1245PL-RDT-ZZ-01-DR-A-2200_PL1; 1245PL-RDT-ZZ-XX-DR-A-0001_PL1; 1245PL-RDT-ZZ-XX-DR-A-0005_PL1; 1245PL-RDT-ZZ-XX-DR-A-1150_PL1.

    3) The number of students on site at any one time shall not exceed 15 in number.

Procedural Matters

2. The development description in the application form refers to the existing use as being within Class 1B(c), whereas the Appellant's appeal form and statement of case refers to the use as Class B1(c). It is reasonable to suggest therefore that the use referred to in the application form is a typographical error and I have referred to the correct term as Class B1(c) in my assessment and in allowing the appeal. I do not think either of the main parties have been prejudiced in my doing so.

Main Issue

3. The main issue is, whether or not the proposed employment use would meet the requirements of local and national planning policy.

Reasons

4. The appeal site comprises the end unit within a large industrial building housing a small number of business uses at the Lismirrane Industrial Park. These include a food processing unit and enterprises involved in manufacturing. An area of forecourt parking is laid out in front of each unit and also includes space for loading and unloading.

5. The use of the appeal building is currently designated under Class B1(c) of the Use Classes Order[1] (UCO) which relate to businesses connected to an industrial process. The proposal would involve a change to Class D1 which amongst other uses includes educational and training establishments. The proposal would involve internal changes to the layout of the building and incorporate bays associated with the training of plumbing, electrical services renewable technologies and gas and welding services.

Local and National Policy

6. Policy SC1 of the Council's Core Strategy[2] lists a comprehensive set of criteria that should be met in creating sustainable development in the Borough. Amongst other considerations this requires proposals to be appropriate in function to the local context.

7. Along with a number of other locations, the Council has designated Lismirrane Industrial Park as a 'local significant employment site' (LSES) that comprises a supply of smaller business units. Policy SADM7 of the Development Management Policies Plan[3] (DMPP) states that LSES have a history of providing accommodation for small businesses, particularly those who provide employment to the local workforce or employment to those with lower-level skills. Their importance is recognised in an employment land review carried out for the Council in 2006. The allocations are not Use Class specific, but their general use and character is more important for the local economy.

8. Policy CS9 of the Core Strategy, seeks to maintain the supply of units at LSES, and if subject to redevelopment for housing or other development will be assessed against the criteria in Policy CS8.

9. In examining the content of Policy CS8, albeit a policy that relates to the larger 'Employment Sites' designation, I have noted that the criteria for assessment, where it would be relevant to a LSES, states that the Council will support development proposals in appropriate locations, which attract commercial investment, maintain economic competitiveness and provide employment opportunities. However, there is no prescription within Policies CS8 and CS9, that limits proposed employment and business uses in LSES to any specific class of the UCO.

10. Although not referred to in their refusal reason, the Council's officer's report assessed the proposed development against Policy CS10 of the Core Strategy.

[1] The Town and Country Planning (Use Classes) Order 1987
[2] Hertsmere Borough Council – Local Plan Core Strategy DPD, 2013
[3] Hertsmere Borough Council – Site Allocations and Development Management Policies Plan, 2016

This relates to the larger 'Employment Sites' and activities will be limited to office, industrial, warehousing and other uses within Class B of the UCO.

11. The National Planning Policy Framework (the Framework) is supportive of proposals that help create the conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

12. In light of the above policy review I have attached greater weight to Policy CS9 of the Core Strategy and Policy SADM7 of the DMPP in that they specifically relate to LSES, within which the appeal site is located.

13. The proposed use as a training facility would result in 3 new employees, and although it is reasonable to assume that those being trained would not be under the direct employment of the business it is likely that the specific training administered could lead indirectly to employment opportunities in the locality, while also providing opportunities to local employees to expand their workforce. Moreover, the nature of the training would relate to industrial and trade employment that would not be inconsistent with the historical context of LSES, the Council refers to.

14. The Council's case rests on there being insufficient evidence of a marketing exercise carried out by the Appellant to demonstrate that the unit is no longer viable for B1(c) uses. Whilst this may provide a useful exercise in seeking the continued use of the building by B1(c) uses, I have not been referred to any details where this is a requirement of the policy or other Council guidance. If there was, then this could have informed the Appellant's marketing of the site in advance of applying for a change of use. Accordingly, I have attached limited weight in my assessment of the appeal to the alleged inadequacy of the Appellant's marketing of the appeal building.

15. It is my view that the Council has incorrectly assessed the proposed development against Policy CS10 of the Core Strategy as this relates to 'Employment Sites' rather than LSES, which the appeal site relates to. Nevertheless, even if I were to attach greater weight to Policy CS10 in my assessment, I note that it is supportive of the provision of training opportunities for the local workforce when considering new employment development at 'Employment Sites, and the proposed use would be broadly in line with this. In this respect, the proposed change of use of the building would result in new development as defined by Section 55 of the Act[4].

16. Therefore, the proposed development is an acceptable employment use that meets the requirements of local and national planning policy. It would therefore accord with Policies SP1 and CS9 of the Core Strategy and Policy SADM7 of the DMPP. The proposal also accords with the Framework.

Conditions

17. I have had regard to the Council's suggested conditions, amending or omitting them where necessary for clarity and to ensure compliance with the tests set out in paragraph 55 of the Framework.

[4] Section 55 of the Town and Country Planning Act 1990

18. It is necessary that planning permission is granted subject to conditions that relate to the standard time limit for commencement of development and a schedule of plans that the development relates to. These are necessary for the avoidance of doubt and in the interests of certainty.

19. I have given careful consideration to the inclusion of Condition 3, having had regard to the Planning Practice Guidance's advice on the inclusion of such restrictive conditions in specific circumstances. Restricting the number of students within the building to 15 at any one time is reasonable in light of the limited number of available parking spaces and to ensure that the use does not lead to any harmful parking pressure within the area. As such, I consider the condition to be reasonable and necessary.

Conclusion

20. For the reasons outlined above, I conclude that the appeal should be allowed.

R.E. Jones

INSPECTOR