



Appeal Decision

Site visit made on 18 February 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2020

Appeal Ref: APP/B5480/W/19/3239600

Unit H & I, 23 Danes Road, Romford RM7 0HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Lewis March against the Council of the London Borough of Havering.
 - The application Ref P0245.18, is dated 10 February 2018.
 - The development proposed is change of use from class (B1) Offices to class (D2) Private Fitness Gym.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site address is taken from the appeal form as it is a more accurate description than that given on the application form.
3. The application was considered by the Council on a retrospective basis. I saw at my site visit that the gym was operational, and so I have also considered the appeal on a retrospective basis.
4. The appellant made the appeal against the Council's failure to issue a decision within the prescribed period, albeit a decision notice was issued by the Council on 11 September 2019, after the prescribed period but prior to the appeal being submitted. However, the issues to be considered are the same whether the appeal is pursued against a refusal of planning permission or against non-determination of the application. I note the appellant raises concern with the length of time the application process took, but such matters are not relevant to the planning merits of the appeal before me. Concerns with the administration of the application are matters for local government accountability and should be pursued with the Council in the first instance.

Main Issue

5. The main issue is whether the proposal would be an acceptable location for a gym, having regard to development plan policies relating to the provision and location of employment generating uses.

Reasons

6. Policy DC10 of the Core Strategy and Development Control Policies Development Plan Document (2008) (the CS) states that within Secondary

Employment Areas (SEAs), within one of which the appeal site lies, planning permission for uses other than B1(b), B1(c), B2 and B8 uses will be granted only in exceptional circumstances, where it is demonstrated that the site is not needed to meet future business needs with regard to the difference between the current supply of employment land and the demand for employment land over the plan period; the site is not considered fit for purpose when assessed against the economic, planning and property market criteria provided in Appendix A of Havering's Employment Land Review 2006 (now the 2015 Review); or the site has proved very difficult to dispose of for the listed uses.

7. The supporting text of the policy sets out that SEAs make an important contribution to the range and number of job opportunities in Havering and that the policy seeks to retain the commercial nature of these areas in so far as this is compatible with maintaining a good environment in the surrounding areas.
8. The application form describes the proposal as a change of use from an office (B1) to a Class D2 private fitness gym, though the appellant argues the previous use was registered as a 'B1 industrial warehouse', not an office. This suggests that the appellant sees the use as falling not within B1(a) (Offices) but within either B1(b) (Research and development of products or processes) or B1(c) (Industrial processes). However, both of these are explicitly protected by Policy DC10, so its requirements fall to be addressed. The appellant has provided no information to address these requirements.
9. The application form states that the gym provides 10 full-time employees, which in the appeal statement is clarified to be '11 people working and running their own business from our site'. No other detail is provided, but on site I saw the appellant and around six other patrons. Whilst this was but a brief snapshot, the scale of the operation did not appear consistent with the stated levels of employment. It may be that the appellant's description refers to personal trainers and the like who may use the gym as a location to work with clients, but this is not the same as providing full-time employment, as such people are likely to be self-employed, earning money from clients rather than the gym itself, and working in more than one location over the week.
10. The gym undoubtedly generates some employment; however, there is insufficient evidence before me to demonstrate that it contributes to the core employment uses appropriate to the SEA, that employment levels are greater than those which the previous use or another preferred use could generate; that the existing site is incapable of being put to one of the preferred uses; or that those uses could not deliver similar or greater employment levels. As such, the employment generated by the gym use attracts limited weight in my considerations.
11. I saw other nearby units within the industrial estate were undergoing renovation or had been recently renovated, with some appearing vacant given a lack of signage. However, in the absence of substantive information on occupancy rates or levels of demand for units, I cannot draw any conclusions that the appeal site is surplus to requirements and can be put to a non-preferred use without any detrimental impact on provision of employment floorspace.
12. On the main issue, therefore, I find that the information provided by the appellant falls well short of the robust justification required by Policy DC10. As a result, I am unable to rule out the possibility that there may be a realistic

prospect of suitable employment uses being found for the unit. Therefore, I find that the proposal is not an appropriate location for a gym as it results in a detrimental impact on the provision of employment floorspace to meet the employment needs of the Borough, contrary to Policy DC10 of the CS.

13. In coming to a view, I recognise that the gym is operational and provides a leisure facility for its customers. However, there is no evidence before me to demonstrate that the gym addresses a shortfall in such facilities locally, nor any details, such as membership levels, that may indicate its value as a leisure facility. On the evidence before me, the benefit of providing a leisure facility which increases choice for local residents attracts limited weight which is not sufficient to overcome the harm identified.
14. No objections have been raised to the proposal in terms of its effect on living conditions, highway safety, parking or visual impact, and nothing I have seen or read leads me to a different view. However; an absence of harm in such matters is a neutral consideration in the planning balance.

Conclusion

15. The proposal results in conflict with the development plan which is not outweighed by other material considerations. The appeal is therefore dismissed.

K Savage

INSPECTOR