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## Appeal Decision

Site visit made on 6 February 2020

**by R Morgan MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 March 2020**

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**Appeal Ref: APP/A2335/W/19/3239809**

**Unit 2, Newgate, White Lund Industrial Estate, Morecambe LA3 3PT**

- 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 Morecambe Bay Wines Ltd against the decision of Lancaster City Council.
  - The application Ref 18/01330/FUL, dated 12 October 2018, was refused by notice dated 19 July 2019.
  - The development proposed is the change of use of 2 industrial units (B8) to 2 mixed use units; one comprising of a warehouse (B8) with associated shop and office (A1/B2), and one comprising of a warehouse (B8), brewery (B2) and bar/shop (A4/A1) and erection of a smoking hut and fence to form a beer garden area.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issues are:
  - i) Whether the extent of the A1 and A4 use is appropriate in this location in respect of the vitality and viability of town centres and the supply of employment land and premises; and
  - ii) the effect of the development upon highway safety.

### Reasons

#### *A1 and A4 uses*

3. The appeal site comprises of two units located within White Lund Industrial Estate in Morecambe.
4. White Lund is allocated for business uses (B1, B2, B8) in Saved Policy EC5 of the Lancaster District Local Plan (Strike-through edition) 2008. The Council has confirmed that, although the units have planning permission for storage/office purposes only, the brewery use at the site is acceptable in terms of development plan policy for the area. However, the site also has A1 and A4 uses (shops and drinking establishments), which are not included in the list of appropriate uses in this location under Policy EC5. The appellant contends that the A1/A4 elements are ancillary to the main uses of the units and are *de minimus*.

5. The plans show the building occupied by Furniture Matters as having an A1 tradeable area at the entrance to the building, which the appellant says is less than 5% of the total building footprint. When I visited the unit, I found that this area has the appearance and feel of a small reception rather than a shop. Furthermore, there is no signage or other indication on the building to suggest that it is open to the public. The operation appears to be a fairly small scale, local business which refurbishes household goods for sale. From my observations on site and the limited evidence provided, it appears that the building is primarily used for storage and some repairs, with any sales at this location being limited and ancillary to the main use of the building.
6. In contrast, in the Cross Bay Brewing Co building, the brewery tap and outside seating areas very much have the feel of a pub. Signage for the Brew House has been erected on the front elevation of the building which contributes to the impression of a leisure use which welcomes visitors. Compared with the Furniture Matters building, a much more significant proportion of the floorspace is given over to the A1/A4 use, with additional space outside having been incorporated into this use. The amount of seating provided suggests that a fairly substantial number of customers can be accommodated.
7. Whilst the turnover of the brewery tap may be small compared with the business as a whole, it is not insignificant. Given the scale of the use and the amount of floorspace involved, the A1/A4 use has gone beyond that which could be described as ancillary to the main storage and brewery use of the building.
8. The shop and brewery tap have reduced the space available for employment uses, and the creation of the beer garden area has resulted in loss of part of the hardstanding area which could otherwise have been used for outside storage. During my site visit I saw that there was extensive outside storage, predominately for barrels and pallets, associated with the Cross Bay Brewery Co. The use of space for internal storage of barrels in the Furniture Matters building suggests that space for storage is in demand and limited. The development has therefore resulted in a loss of space available for those employment uses which Saved Policy EC5 lists as being appropriate in this location.
9. Policy DM15 of the Development Management DPD 2014 (DMDPD) seeks to retain land and building in active employment use and minimise the loss of employment land and premises to alternative uses. The policy sets out circumstances which proposals involving alternative uses of employment land will be permitted, but none of them have been met in this case.
10. According to the appellant, the brewery tap is open during restricted hours at the weekends and bank holidays, which suggests that it can, and does, operate separately from the main use of the building. I note the appellant's comment that by mid evening, patrons tend to leave and go into Lancaster. This suggests that customers are travelling to this location specifically to visit the brewery tap, and that a town centre location would be more appropriate for this use.
11. DMDPD Policy DM1 aims to promote the vitality and viability of town centres by directing main town centre uses, including shops, bars and pubs, to town centre locations. Where main town centre uses are proposed outside of town centre locations, they will be required to demonstrate, through a sequential

test, that no alternative town centre or edge of centre sites are available which could accommodate the proposed development.

12. In this case, the proposal involves a main town centre use outside a town centre location, but no assessment of more sequentially preferable locations has been provided. The appellant suggests that the use cannot take place in another location, but no evidence has been provided as to why this is the case. The need for the use to be in this location has not been clearly justified, particularly given that the main focus of the business is on off-site sales and, according to the Council, the shop use was previously located in a local centre.
13. I conclude that the extent of A1 and A4 uses in the Cross Bay Brewery Co building is not appropriate in this location in respect of the vitality and viability of town centres and the supply of employment land and premises. The proposal conflicts with Saved Policy EC5 which allocates land at White Lund Industrial Estate for business uses, and DMDPD Policy DM15, which seeks to avoid the loss of employment land and premises to other uses. There is further conflict with Policy DM1, which promotes the vitality and viability of town centres, and section 7 of the National Planning Policy Framework (the Framework), which has similar concerns.
14. The Council has referred to DMDPD Policy DM5 in its decision notice, which is concerned with the evening and night-time economy. However, the policy is concerned with the impacts of such development, rather than its location, and is not directly relevant to this main issue.

#### *Highway Safety*

15. Areas for parking and servicing are now being used for external storage, with a lack of space for vehicles to pass each-other and turn within the site. According to the Council, this can result in the need for vehicles to queue to enter the site. However, despite the large amount of external storage, when on my site visit I did not see any problems with access or circulation, although I appreciate that my visit was only a snapshot in time and that problems may occur at other times. I did notice that there is limited space for car parking at the front of the buildings, which appears to be on areas of pavement rather than dedicated spaces.
16. Space for access and parking in and around the site is clearly limited and this will have been exacerbated by the creation of the beer garden. However, I have not been provided with any further evidence to support the Council's claims about the problems being encountered, nor have I been provided with any details of the amount and location of parking spaces which should be provided at the site. Furthermore, I note that the highways officer has not objected to the proposal.
17. In the absence of further evidence to the contrary, I conclude that the development does not harm highway safety. As such I have not found any conflict with DMDPD Policies DM20, regarding the provision of parking and highway safety matters, or Policy DM35, which requires good design; appropriate layouts and suitable and safe access to the highway network. I have similarly found no conflict with Section 12 of the Framework which is concerned with achieving well designed places.

## **Conclusion**

18. I have found that the development is acceptable in terms of highway safety. However, this does not outweigh the harm caused by the loss of land and premises for employment use or the presence of main town centre uses in this location.
19. For the reasons given I therefore conclude that the appeal is dismissed.

*R Morgan*

INSPECTOR