



Appeal Decision

Site visit made on 5 February 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2020

Appeal Ref: APP/M5450/W/19/3241945

Unit 8, Brember Road, South Harrow, HA2 8AX

- 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 Shamimi of Energym against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2474/19, dated 3 June 2019, was refused by notice dated 29 July 2019.
 - The development proposed is change of use of existing warehouse (B8 use), to fitness gym (class D2 use).
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - i) Whether or not the loss of the existing business use is justified, having regard to development plan policies which seek to manage the release of industrial land; and
 - ii) whether or not the site is suitable for the proposed use, having regard to development plan policies which seek to direct such uses to town centres.

Reasons

Existing business use

3. The site comprises a warehouse, identified as falling within B8 use. Policy CS1 O of the Harrow Council Core Strategy (2012) ("Core Strategy") requires that the stock of business premises in the Borough will be monitored and managed to meet economic needs. It sets out a hierarchy within which the release of industrial land will be considered. This reflects the strategic approach set out in policy 4.4 of the London Plan (2016).
4. The site falls within an allocated industrial site, but not one which falls within a strategic industrial location. In terms of the hierarchy set out in the Core Strategy it would be considered for release before those sites in strategic industrial locations, but after non-allocated sites in the Borough. Policy DM 31 of the Harrow Council Development Management Policies (2013) ("DMP") sets out an approach towards the release of such land. Two criteria have to be met; that the site is no longer suitable and viable for its existing or an alternative

industrial or business use and a suitable period of continuous marketing has been undertaken without success. DM 31 part D requires that alternative employment uses are prioritised when such land is redeveloped.

5. The property has been marketed as a warehouse for a long period of time on flexible terms, but has remained vacant with no interest from traditional warehouse occupiers. The marketing report concludes that there is insufficient demand for large warehouse units in South Harrow. It cites, amongst other things, limitations with the existing building due to its condition, design and internal steel frame mezzanine floor; all of which would deter large warehouse operatives.
6. Whilst this suggests that the building is unlikely to be occupied as a large warehouse in the current economic climate, it does not demonstrate that it could not be occupied by other industrial or business users. The unit falls within a business park which appears to be fully occupied. Whilst it does not benefit from easy motorway access it is well located in relation to public transport links and services. The evidence before me does not demonstrate the site could not be viably put to other business or industrial uses.
7. Consequently, it has not been demonstrated that the proposal is no longer suitable and viable for an alternative industrial or business use. In this respect the loss of the existing use has not been justified. The proposal conflicts with the most relevant development plan policies which seek to manage the release of industrial land in the Borough; namely CS1 O of the Core Strategy and DM 31 C/D of the DMP, which seek to prevent the loss of industrial land without justification.
8. The appellant draws attention to recent studies, in particular the Harrow Economic Development Needs Assessment, which indicate that the quality of the industrial space within the Brember Road Estate is average. It is also suggested that redevelopment schemes are likely to meet much of the demand for employment floorspace. However, none of this evidence conclusively proves that the unit in question should be regarded as redundant. As such, it does not justify a departure from the position set out in the development plan.
9. Both parties also refer to policies regarding industrial land in the emerging new London Plan. However, these are strategic policies which are of particular relevance for future plan making. They do not change the position set out in the DMP. At present they are not yet part of the development plan, and the panel report following the recent examination indicates that further work might need to take place on the industrial floorspace categorisations. For the above reasons they only attract limited weight for the purposes of this decision, and are not determinative in my conclusion on this issue.

Location for proposed use

10. Policy CS1 L of the Core Strategy seeks to direct major leisure development to Harrow Town Centre. DM35 part C of the DMP state that proposals in out of centre locations will only be permitted where there is no harm to residential amenity, and it has been demonstrated that all reasonable alternatives for the proposal have been explored. DM46 of the DMP requires that such uses will be considered having regard to, amongst other things, the impact upon on other legitimate uses within the building and neighbouring buildings; and the adequacy of parking and access arrangements.

11. The appellant provided a sequential report which does not identify any suitable alternative premises within town centres or edge of centre locations within the Borough, for the proposed use. This is a comprehensive study which discounts both development sites, many of which would depend on alternative proposals for residential led redevelopment coming forward; and existing commercial properties. Following consideration of all reasonable alternatives, it concludes that none are appropriate for the modest sized gym that is being proposed here.
12. The Council raise criticisms of the survey, arguing that the requirements of the operator are too narrow in scope. Furthermore, the desired rent levels appear low. However, the Council do not provide counter evidence indicating that there are more suitable sites for a gym use similar to that proposed, and currently available within town centres or edge of centre locations. Whilst gym uses have previously been approved in town centres, the evidence before me does not indicate that these sites, or others previously used by a gym, could be made available to the proposed operation.
13. In the absence of such information it is reasonable to rely on the information provided by the appellant, in relation to this issue. In other respects, the site is located away from residential properties, and the proposed use would not result in activities that conflict with business uses being carried out on the remainder of this industrial estate. I therefore conclude that the relevant policy tests have been met and the location is suitable for the proposed use. There is no conflict with the most relevant development plan policies in relation to this issue, namely CS1 L of the Core strategy, nor DM35 C or DM46 of the DMP, the purposes of which are discussed above.

Other Matters

14. The policies which seek to protect business and industrial land, as cited in the first main issue, are broadly consistent with the National Planning Policy Framework which seeks to build a strong, competitive economy. Consequently, they are up to date for the purposes of decision making. For the reasons discussed previously, it has not been demonstrated that the existing building cannot be re-used for industrial or business purposes. As such, the loss of this business space, even if only on a temporary basis (for instance the 10 or 15 year timescale suggested by the appellant) would conflict with this national planning policy objective.
15. The proposal would provide jobs (estimated at 15) and generate economic activity, although it would principally act as a community space. In this respect it would assist with the objective of promoting healthy and safe communities, in an area where at present there would appear to be a shortage of such facilities. It would also re-use a vacant building, potentially providing a service to other businesses on the estate. In this respect, there is support for the proposal in local regeneration initiatives, development plan policies¹ and the Framework.
16. However, the considerations that weigh in favour of the proposal do not, even cumulatively, outweigh the harm identified in the first main issue. The proposal conflicts with the development plan and the presumption in favour of sustainable development does not apply. As the principle of development is

¹ As cited in the planning, design and access statement, submitted in support of the original planning application.

unacceptable, the identified harm cannot be overcome through granting a temporary planning permission, nor limiting the benefit of permission to the appellant.

17. Whilst the Council have granted other permissions for sports facilities within the Borough, including on industrial land, in this case the loss of the existing employment use has not been justified against the most relevant development plan policies. There was a previous appeal on this site but it was for a different type of development, and was ultimately dismissed for different reasons. It is of no relevance to my consideration of this case.

Conclusion

18. Whilst it has been demonstrated that the location of the site is appropriate for the gym use proposed, the loss of the existing business use of the land has not been justified. The proposal therefore conflicts with the development plan, when it is considered as a whole, and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR