



Appeal Decision

Site visit made on 11 February 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 21st April 2020

Appeal Ref: APP/A0665/W/19/3241288

Oakwood Farm, Parkgate Road, Saughall, Chester CH1 6EY

- 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 Mrs C Owens (Imperial Pets) against the decision of Cheshire West & Chester Council.
 - The application Ref 19/00117/FUL, dated 07 January 2018, was refused by notice dated 11 July 2019.
 - The development proposed is material change of use of land and building from B1 Light Industrial/ B8 Storage and Distribution to a mixed use of A1/ Retail and B8 Storage and Distribution. (In retrospect)
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is part of a building at Oakwood Farm, a former farm complex with planning permission (ref 13/01747/FUL) for change of use to guesthouse accommodation, B1/B8 light industrial and storage units and vehicle sales area. The appeal building is indicated for B8 storage use on the approved plans.
3. The development has already been carried out. An enforcement notice issued by the Council in this regard was subsequently withdrawn. Consequently, I have considered the appeal on the basis that the use is ongoing and the scheme seeks to regularise the continuing use of the site as a retail and storage unit.
4. In July 2019, after the Council determined the application, it adopted the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (the CWCLP2). Emerging Policy DM 5 of the CWCLP2 cited in the decision notice forms part of the development plan and Policy RET14 of the Chester District Local Plan Adopted May 2006 has been superseded.
5. The CWCLP2 was at an advanced stage of preparation when the application was determined and it had been adopted by the time the appeal was made. Therefore both parties have had the opportunity to comment on the policies contained within it and which have now been adopted.
6. The Council changed the description of the development to "Change of use of land and building from B8 Storage to a A1/Retail use (Retrospective)". However, the appellant does not agree the amended description and I have therefore taken the description of the development in the banner heading above from the application form.

Main Issues

7. The main issues in the appeal are:

- i) The effects of the development on the range, choice and quality of employment sites; and
- ii) Whether the site is a suitable location for the development, having regard to national and local policies for town centres and sustainable rural development.

Reasons

- 8. Oakwood Farm is a former farmstead in the countryside. In addition to the appeal site, there is also guesthouse accommodation, a camping and caravan site, a photography studio, dog grooming business, light industrial use and a café¹.
- 9. The development is advertised externally as a boutique pet store, with opening times for collections and instructions for ordering. Internally, non-perishable and long-life food items are arranged on shelves with perishable pet food stored in freezer units. Prices are clearly displayed and there is a service counter with a pay station.
- 10. The application form does not include the opening hours. However, these are advertised as 1000 until 1600 Tuesday to Thursday, 1000 until 1700 Friday and Saturday, and closed on Sundays and Mondays. There is no information regarding delivery times but, given the opening hours, it seems likely that the 1 employee would be primarily based at the retail premises.
- 11. The retail layout and individual pricing of items facilitates manual stock control in the absence of automated systems and saves time when the appellant takes space at dog shows and country fairs. However, the evidence is that the pet shop stocks a wider range of products than the website and some 48% of recent customers visited the shop without pre-ordering. Therefore, irrespective of collections, home deliveries and the dog harness fitting service, the retail use is not ancillary to a storage use of the site.

The effect on employment sites

- 12. Policy ECON 1 of the Cheshire West and Cheshire Council Local Plan (Part One) Strategic Policies Adopted January 2015 (the CWCCLP1) aims to maintain a flexible supply of business land and premises across the borough. Proposals that would result in the loss of employment sites, including B1 and B8 uses, should not limit the range, choice and quality of employment sites and continued employment use should no longer be viable.
- 13. The appeal site does not appear to be in a key employment location, business park or industrial estate. There is little evidence that it is essential to the provision, or that its loss would be significantly detrimental to the supply, of business premises. However, I accept that the loss of the employment site could contribute to cumulative adverse impacts in this regard.

¹ Subject of appeal ref APP/A0665/W/19/3241146

14. There do not appear to have been any attempts to let or sell the premises for employment use. There is nothing to suggest that the site could not be re-used for employment purposes.
15. Therefore, the development has resulted in the loss of an employment premises. Consequently, despite the apparently limited harm, it conflicts with the aims of Policies ECON 1 of the CWCCLP1 and DM 5 of the CWCCLP2.

Whether the site is a suitable location for the development

16. The appeal site is in a rural location to the north west of Chester, close to the junction of the A540 with the A494 and the M56 motorway. Although it is not remote from built development, it is not in or near a settlement.
17. Policies ECON 1 and ECON 2 of the CWCCLP1 seek to locate town centre uses, including retail development, in accordance with the settlement hierarchy. This is consistent with policies in the National Planning Policy Framework (the Framework) that relate to the vitality of town centres.
16. In this case, the pet shop caters primarily for domestic companion animals, including dogs and cats. I accept that bulk bags of animal food are heavy, such that a city centre location with no parking would not be ideal for customer collections. However, the absence of dog waste disposal facilities, the business rates and car parking charges in Chester, and the availability and price of some of the products on offer, do not justify the rural location. The pet shop is not a rural business and there is no functional need for a rural location.
17. A limited number of alternative sites were considered and discounted, including a garden centre, a listed building in the city centre and an out of centre location with no parking. While these may not have been suitable, this does not demonstrate the need for a rural location or that the pet shop could not be sited in accordance with the Council's town centre first approach.
18. My attention has been drawn to schemes elsewhere. These include other uses at Oakwood Farm, a pet supplies premises elsewhere on Parkgate Road, out of town retail parks, plumbing and building supply retailers on industrial estates and food stores that offer home delivery. However, in the absence of details of any such schemes there is no evidence that they are directly comparable to the appeal scheme or that they provide a justification for it.
19. Therefore, the appeal site is not in a suitable location for the retail development. The development conflicts with the aims of Policies ECON 1 and ECON 2 of the CWCCLP1 and the Framework. It conflicts with the aims of Policy DM 5 of the CWCCLP2 in relation to the suitability of locations and sustainable patterns of development.

Other considerations and planning balance

20. The appeal site is in the Green Belt. Although the reasons for refusal do not relate to impacts on the Green Belt, if I had been minded to allow the appeal it would have been necessary for me to carry out an assessment in this regard. There is no evidence that the change of use would be inappropriate in the Green Belt or that it would conflict with the purposes of including land within it. Nevertheless, as I am dismissing the appeal for other reasons, there is no need for me to consider the matter further.

21. While there is support in the Framework for small scale rural development and economic growth in rural areas, the pet shop is not a rural business and it does not require a rural location. Policies in the Framework that relate to sustainable rural development do not weigh in favour of the appeal scheme.
22. The appeal site can be accessed by walking, cycling and public transport. However, the development does not minimise the need to travel and the majority of customers would travel by private vehicle. On the basis that there are likely to be other sites in more accessible locations, the accessibility of the site by car does not weigh in favour of a town centre use in a rural location.
23. Representations in support refer to the appellant's qualifications, knowledge and experience and high quality service. However, there is no guarantee that future occupiers would provide a similar standard of service. The development does not harm the living conditions of neighbouring occupiers or the highway network. Neither compliance with the requirements of some policies nor the third party support weigh significantly in favour of the scheme.
18. While future business growth could result in additional employment opportunities, there is currently 1 full-time employee. Moreover, prior to operating from this site, the appellant ran the business from her home. Therefore, there would be only limited economic benefits.
19. It has been suggested that a 3 year temporary permission would allow the business to grow and enable evidence to be produced to demonstrate that it is not a retail use. However, the appeal has provided the appellant with the opportunity to respond to the reasons the application was refused. I am not aware of any exceptional circumstances that would justify allowing the appeal on a temporary basis.

Conclusions

20. I have found that the appeal site is not in a suitable location for the pet shop. While the harm to the supply of employment sites and to the vitality and viability of town centres is limited, nevertheless the conflict with the Council's locational development strategy results in moderate harm.
21. Therefore, the development is in conflict with the development plan and there are no material considerations, including the third party support, that would outweigh that conflict. For this reason, the appeal is therefore dismissed.

Sarah Manchester

INSPECTOR