
Appeal Decision

Site visit made on 31 July 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2020

Appeal Ref: APP/M4510/W/20/3248372

Gosforth Industrial Estate, Christon Road, Gosforth, Newcastle-upon-Tyne NE3 1XD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Jonathan Kershaw against the decision of Newcastle City Council.
 - The application Ref 2019/1163/01/DET, dated 14 August 2019, was refused by notice dated 7 November 2019.
 - The development proposed is described as the change of use of vacant industrial unit (Class B2) to gym facilities (Class D2).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the development proposal provides for sufficient car parking to meet operational needs;
 - Whether the development proposal provides for safe pedestrian access; and
 - Whether the geographical terms of reference for the sequential tests are appropriate.

Reasons

Car Parking Provision

3. The proposed development comprises the change of use of 3 adjacent units from B2 General Industrial to D2 Assembly and Leisure at Gosforth Industrial Estate. The industrial estate is triangular and is surrounded on all three sides by Metro railway lines. Access to the estate is from Christon Road underneath a narrow bridge ('the Metro Bridge').
4. Unit H would measure 389 square metres and would be used as a dance studio; Unit J would measure 397 square metres and would be used as a wrestling gym; and Unit K would measure 420 square metres and would be used as a general gym. In total, the 3 units would amount to 1206 square metres of floor space.

5. The Council's planning guidance advises that one parking space should be made available for every 30 square metres of D2 use. This would amount to a need to provide for 40 parking spaces for the proposed development.
6. The proposal includes parking for 14 cars immediately in front of the three units together with provision for a further 16 spaces during the relevant hours on the unmarked car park opposite. This would produce a shortfall of 10 spaces against the advised standard.
7. All the roads within the industrial estate are subject to on-street double yellow line parking restrictions. There is on-street parking available just outside of the industrial estate along Christon Road although this is rather narrow and would cause inconvenience to other users of the highway. Moreover, it would require drivers and passengers to walk along the narrow pavement under the Metro Bridge to the industrial estate, a matter that will be discussed in more detail under the second main issue.
8. However, the gyms would be within approximately 500 metres of 2 bus stops which serve several routes. The walk from the bus stop via Christon Road would be around 6 minutes which is less than the national average duration of walk to a bus stop for leisure purposes. They would also be relatively easily accessible by foot or bicycle for those living in Gosforth and to this effect the proposal includes 3 Sheffield cycle stands. The South Gosforth Metro Station is within 630 metres walk of the site.
9. There is no readily available vehicular trip generation data for gym uses. The proposed operator estimates that at the maximum weekday peak there would be 18 vehicles accessing the development, in which case the level of proposed parking provision would be sufficient. However, no detailed information has been provided to explain and justify the use of this figure. Consequently, I attach little weight to this submission and therefore see no reason to depart from the Council's own guideline figure as a basis for assessing the adequacy of the proposed parking provision.
10. Customers accessing the gyms would probably be encumbered by the need to carry changing kit with them. As such, the distances to and from the bus and metro stops might act as something of a deterrent to the use of public transport. Consequently, the number of customers accessing the gyms by car would probably be in excess of the level estimated by the Appellant.
11. It is likely that the inadequate capacity of formal spaces would lead to attempts to squeeze more cars into the 16-space car park opposite, to park on informal spaces within the industrial estate and to park on-street outside the estate along Christon Road. None of these outcomes would constitute a satisfactory parking arrangement.
12. Thus, for the reasons set out above the development proposal would fail to provide for a satisfactory level of off-street parking. It would therefore fail to accord with Policy CS13 (3:i and ii) of the Core Strategy and Urban Core Plan for Gateshead and Newcastle-upon-Tyne 2010-2030 2015 (CS) which requires that new development be located where it maximises the use of sustainable forms of transportation and minimises the need for car use.
13. It would also fail to comport with Policies 4.5 and 7.1 of the Newcastle-upon-Tyne Unitary Development Plan 1998 (UDP) which require that new

development provides sufficient parking for operational requirements and that it does not result in on-street parking to the inconvenience of other highway users.

Pedestrian Access

14. Those parking on the unmarked car park opposite would have to cross the road to access the proposed gyms. Given the relatively light levels of traffic within the industrial estate, the reasonable level of visibility in either direction, the slow speeds at which vehicles are travelling and the lack of any evidence of previous accidents occasioning injury to pedestrians it would not be necessary to require the installation of a dedicated crossing.
15. Pedestrian access to the industrial estate is underneath the Metro Bridge along one of 2 narrow pavements on either side of Christon Road. Heavy goods vehicles and other large vehicles use this narrow carriageway to access the industrial estate. As such it would not be appropriate to locate a development that would be likely to intensify pedestrian usage of this route. It might be possible to attach a condition preventing under-16 year olds from using the proposed gyms to reduce the likelihood of any accidents involving pedestrians but there would remain an unacceptable risk for adults walking under the Metro Bridge, in particular in the winter.
16. For the above reasons the development proposal would fail to provide for safe pedestrian access. It would therefore fail to accord with Policy C13(3:vii) of the CS that requires that new development provides for safe pedestrian access. It would also fail to accord with Policies T2 and T7.1 of the UDP which both seek to improve pedestrian safety. Furthermore, it would fail to comport with the advice set out in Paragraph 109 of the National Planning Policy Framework ('the Framework') that proposals for new development should not be permitted where there would be an unacceptable impact on highway safety.

Sequential Test

17. The sequential test prepared in support of the original planning application focused on possible site availability in South Gosforth, Gosforth and Great North Road. The Appellant's selection criteria included: the availability of car parking; size and layout; security / privacy; and cost. The premises known as 'Daft as a Brush House' at Great North Road and the former fire station at Gosforth High Street were identified as possible alternatives but found to be unsuitable, primarily because of inadequate floor space and low ceilings.
18. A further sequential test carried out in support of this appeal has also focused on the same area and identified a further 8 possible alternative sites. Premises at Back High Street, Gosforth Shopping Centre, Salters Road, Gosforth High Street and Elmfield Road were all considered but found to be inappropriate due mainly to size and layout.
19. Sequential tests have to be cognisant of commercial reality (see paragraph 38 of *Tesco Stores Ltd v Dundee City Council* 2012 [UKSC13]). Planning Policy Guidance also advises that councils must be realistic in their approach to determining proposals for town centre uses. If the geographical coverage of sequential tests becomes too wide, there is a risk that their usefulness diminishes to the point that they become little more than theoretical exercises serving no practical purpose.

20. However, whilst it would not be sensible or necessary to consider all 45 retail centres in Newcastle as a potential location for the proposed development, because of the specialist nature of the intended uses the current area of search, covering as it does just a small area of northern Newcastle, is unduly tightly geographically circumscribed. Consequently, the sequential tests prepared by the Appellant in support of the development proposal fails to consider enough retail centres as potential locations and therefore fails to satisfy the need for flexibility.
21. Consequently, the geographical terms of reference for the sequential tests were not drawn sufficiently widely to ensure that they produced a set of conclusions that were credible and robust in informing the determination of the development proposal. Thus, they fail to accord with Policy CS7 (3:ii) of the CS that seeks to ensure that new development outside of defined town centres should only be permitted where it can be shown that there are no sequentially preferable sites in, or on the edge of, centres. Furthermore, they would fail to comport with Paragraph 87 of the Framework which advises applicants for planning permission to demonstrate flexibility.

Other Matters

22. The development proposal would constitute a major economic investment and would promote healthy lifestyles, consistent with Paragraphs 80 and 91 of the Framework respectively. These are matters that support the proposal. However, they do not outweigh the fundamental conflicts with the Development Plan which have been identified under the three main issues examined above.

Conclusion

23. For the reasons set out above the appeal should be dismissed.

William Walton

INSPECTOR