



Appeal Decision

Site Visit made on 13 October 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2021

Appeal Ref: APP/V1260/W/21/3269322

Compton Business Park, Unit 12, Thrush Road, Poole BH12 4FJ

- 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 AK Academy of Dancing against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/20/00718/C, dated 30 June 2020, was refused by notice dated 18 December 2020.
 - The development proposed is change of use of Unit 12 for use as Dance School (temp consent 5 years).
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Decision

1. The appeal is allowed and planning permission is granted for change of use of Unit 12 for use as Dance School (temp consent 5 years) at Compton Business Park, Unit 12, Thrush Road, Poole BH12 4FJ in accordance with the terms of the application, Ref APP/20/00718/C, dated 30 June 2020, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by AK Academy of Dancing against Bournemouth Christchurch and Poole Council. This application is the subject of a separate Decision.

Main Issues

3. Since the decision, the Council has adopted a new Parking Standards Supplementary Planning Document (SPD). Based on the size and location of the development, the car parking available would accord with this guidance. Consequently, the Council has confirmed that its second reason for refusal on the decision notice has been overcome.
4. Therefore, the main issues are:
 - a) Whether the site is suitable for the proposed use, bearing in mind development plan policy relating to existing employment areas; and,
 - b) The effect of the development on the safety of pedestrians visiting the premises.

Reasons

Suitability for the proposed use

5. The appeal building is a newly constructed industrial unit, located in the corner of a group of similar buildings that are arranged in courtyard fashion around a

central parking and servicing area. It lies within an extensive area of industrial buildings, known as Mannings Heath, which is one of the three largest employment areas in the district. Paragraphs 7.8 and 7.9 of the Poole Local Plan (2018) (the Local Plan) says these areas are of strategic importance, not only to Poole, but also the wider south-east Dorset area, and that the loss of any significant level of employment land and premises within them could undermine economic growth, so will be resisted.

6. As well as safeguarding these areas for office, industrial, and storage/distribution uses, Policy PP16 of the Local Plan also provides for uses which generate employment, and which are appropriate to the location due to a lack of suitable alternative sites outside existing employment areas. Supporting paragraph 7.15 specifically refers to dance studios as a potentially appropriate use. In such cases, the applicant is expected to include evidence of alternative sites considered outside existing employment areas, and to set out the employment benefits of the proposed use. Such uses are only permitted where they would not compromise the activities and vitality of the employment area. The proposed change of use to a dance school would, therefore, accord with Policy PP16, if it was demonstrated that there were no suitable alternative sites, there were employment benefits, and the use would not compromise surrounding employment uses.
7. The evidence indicates that the Council accepted, under a previous application, that alternative sites were not available, and that the size of unit that was needed would preclude a town centre location. Consequently, although the application was refused in March 2020¹, Policy PP16 was only cited in respect of the availability of car-parking, which the Council is no longer contesting under this appeal. Updated information on available sites was not, however, submitted with the application that gave rise to this appeal.
8. The evidence submitted with the appeal indicates that there were 14 buildings of less than 500 sq m advertised for rent on rightmove.co.uk in the whole of Poole in December 2019. Three of these were in another strategically important employment area. The others were unsuitable, either due to their size, or because they were set up as office suites, so were not large enough to accommodate a dance floor. On 12 June 2021, 59 commercial units of less than 500 sq m were available to rent in Poole, but 40 of these were serviced office units, 9 were retail premises and 2 were restaurants. None were considered to provide the space and flexibility required for the proposed use. The Council has not contested the appellant's updated evidence, nor has it identified any suitable sites that have become available since the previous application. The available evidence therefore still indicates that suitable alternative sites do not exist outside existing employment areas.
9. The application form indicates that the proposed use would provide four full-time equivalent jobs (2 full-time and 5 part-time). This is one less than might be expected if the building was used as a warehouse. However, the unit is currently vacant, and I saw that a number of others in the complex were also vacant and available for rent. Consequently, there would be employment benefits in occupying an empty unit, whilst others would still be available for potential users offering a higher density of jobs.

¹ LPA reference: APP/19/01467/C

10. The Council has accepted that the unit has sufficient car-parking spaces to meet its updated guidance. Furthermore, the use would only take place at weekends and after 17:00 on weekdays. Consequently, the traffic attracted to the site would not be likely to interfere with the activities of the surrounding employment uses to any significant degree.
11. In view of the lack of suitable alternative sites, the employment benefits of utilising a vacant building, and the negligible impact on surrounding employment uses, I conclude that the site is suitable for the proposed use when bearing in mind the requirements of Policy PP16 of the Local Plan. In coming to this conclusion, I am mindful that the proposed use is only acceptable due to the lack of suitable alternative sites outside employment areas, and that this may change over time. However, the application seeks a temporary consent for five years, so the Council's longer-term strategy to safeguard existing employment buildings would not be compromised.

Safety of pedestrians

12. The main estate roads in the Mannings Heath employment area have wide pavements on both sides and are lit. The carriageways are wide, parking is controlled by double yellow lines, and traffic speeds are low. Consequently, despite the presence of commercial traffic, the main public routes through the estate provide a safe environment for pedestrians.
13. Thrush Road, however, only has a footway on one side, and, despite the presence of double yellow lines, at the time of my visit, there were vehicles and commercial bins parked and stored on the pavement, forcing pedestrians to walk on the road. At the end of the cul de sac the pavement disappears, and pedestrians must walk across the vehicle turning head to enter Compton Business Park. The turning head also provides vehicular access to a large storage yard serviced by heavy goods vehicles. Consequently, the route along Thrush Road and into the business park is not safe and convenient for pedestrians.
14. Unit 12 lies at the furthest point from the access off Thrush Road, so pedestrians would have to walk between all the industrial buildings within the complex to reach the dance school. This would involve traversing large expanses of open concrete. Whilst the carriageway and parking areas are marked out, there are no kerbs, or physically separated footways, and there are large areas that lie outside these markings, where it is unclear which users have priority. As a result, it is unlikely that vehicle movements will be restricted to the marked areas. Consequently, reaching Unit 12 on foot would involve walking through an expansive area of open land, where commercial vehicle movements are largely unrestricted, and where there are no clear pedestrian refuges. It is not, therefore, an inherently safe environment for pedestrians, particularly unaccompanied children.
15. The proposed use, however, involves dance tuition to children. The evidence indicates that students using the existing facilities run by the appellant do not arrive on foot, but are dropped off and collected by car. This is often on a lift-share basis with other children. The appellant has suggested the imposition of a condition that no students or staff should access the dance studio on foot. However, such a condition would fail the tests of reasonableness and enforceability, as the appellant would not be able to control how students travelled to the site. In any event, the evidence indicates that such a condition

would not be necessary, as the appellant's Travel Mode Survey, covering 551 movements, demonstrates that all students arrived at sessions by car.

16. The Council accepts that most trips to the site would be by car, due to its location, and inaccessibility by public transport, but remains concerned about the possibility that some students may walk to the site. As there are residential areas within reasonable walking distance, this cannot be entirely discounted. However, the nature of the site means that it is unlikely that parents would allow unaccompanied children to walk to or from the dance school. Furthermore, the proposed hours of use would mean that anybody arriving at, or leaving the school, by foot, would do so outside the main operating times of the business uses, so would be unlikely to encounter extensive vehicle movements within the courtyard. Consequently, provided the hours of use are controlled by a planning condition, the small number of pedestrian movements generated by the use would not result in significant safety conflicts.
17. There is already a level of pedestrian activity within the business park resulting from the existing commercial activities. The approved use of Unit 12 would, itself, generate additional pedestrian trips across the yard by employees and visitors. Whilst it may be expected that the nature of the proposed use would result in a higher turnover of visitors, the evidence indicates that these trips would be almost entirely car borne. Consequently, there is unlikely to be any significant increase in the overall level of pedestrian movements in the yard, and any such activity associated with the proposed use would be outside the busiest times for commercial traffic.
18. For the above reasons, I conclude that the proposal would not result in dangerous conflicts between pedestrians and vehicles associated with the employment uses. The development would, therefore, comply with Policies PP16 and PP35 of the Local Plan, which seek to provide a safe, connected and accessible transport network, and to ensure that proposals do not compromise the activities of existing employment areas. The Council's reason for refusal also refers to the Parking and Highway Layout in Development SPD (2011), however the evidence indicates that this guidance has been replaced by the new Parking Standards SPD.

Conditions

19. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty for all parties. The Council has submitted a schedule of suggested conditions to cover other matters. I have considered all the suggested conditions against the advice in the Planning Practice Guidance. I have agreed that the conditions are necessary, but I have altered them, in the interests of clarity and precision, to better reflect the guidance.
20. The application was made to allow the use for a temporary period of five years. I consider that a condition limiting the permission to this period is reasonable and necessary, in view of the Council's long-term strategy to safeguard existing employment buildings. I have found that the use proposed would accord with development plan policies, as it is appropriate to the location, due to a lack of suitable alternative sites outside existing employment areas. It is therefore necessary and reasonable to impose a condition limiting the use of the building to this particular purpose.

21. To avoid conflicts between pedestrians and commercial traffic, and to avoid compromising the activities of the employment area, a condition limiting the hours of use of the premises to avoid the main working hours of the commercial uses is justified.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 Location Plan.
- 3) The use hereby permitted shall be for a limited period being the period of five years from the date of this decision. The use hereby permitted shall be discontinued and the building restored to its former condition within one month of the date of expiry of the permission in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
- 4) The premises shall be used for a dance school and for no other purpose (including any purpose in Class F1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 5) The use hereby permitted shall not take place before 17:00 on Mondays to Fridays inclusive.