



Appeal Decision

Site visit made on 27 April 2022

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th June 2022

Appeal Ref: APP/C1950/W/21/3285676

Land Adjacent to 26 Starling Lane, Cuffley, Potters Bar EN6 4JX

- 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 G Ricotta (Code 4 Ltd) against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2021/2467/FULL, dated 19 August 2021, was refused by notice dated 19 October 2021.
 - The development proposed is erection of a single storey workspace office/artist studio.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following a review of the representations made by interested parties and my site visit, the appellant and the Council were provided with an opportunity to comment on Policy EMP8 of the Welwyn Hatfield District Plan (DP), which relates to the location of employment development. The main parties were also able to comment on the proposal's implications for parking for disabled persons. These matters are considered in the main issues identified below. I have taken the appellant's comments into account in deciding the appeal.
1. In the appellant's response, it is stated that the proposal could be amended to provide a live-work unit and that the drawings could be amended as necessary. However, it is important that the scheme that I consider is essentially that which has been considered by the Council and on which interested parties' views have been sought. To do otherwise would be prejudicial to the positions of the Council and interested parties. The appellant's suggestion would fundamentally change the nature of the development and the Council and interested parties have not had an appropriate opportunity to comment on the matter. Accordingly, in the interests of fairness, I have considered the appeal on the basis that it is for an office/artist's studio.
2. Additionally, the appellant has provided amended drawings¹ showing the creation of a new pedestrian access into the site to facilitate firefighting. I am satisfied that this is a minor change that could reasonably be encapsulated by a planning condition relating to emergency servicing. I have therefore taken those drawings into account in making a decision.

¹ Drawing Nos: 65_302D; A21131-01 P2

Main Issues

3. The main issues are:

- whether the site is in an appropriate location for employment development; and
- whether the proposal would provide satisfactory access, parking and servicing arrangements.

Reasons

Location for employment

4. The site principally includes grassland and vegetation and features a few small outbuildings. It is within a residential area in the settlement of Cuffley. The appellant describes the site as disused garden land, but also contends that it is brownfield land. However, the glossary to the National Planning Policy Framework (Framework) excludes land in built-up areas, such as residential gardens, from the definition of brownfield land. Therefore, the site not brownfield land.
5. Development use classes are set out in the schedules to The Town and Country Planning (Use Classes) Order 1987 (UCO). The appellant states that the proposal would fall within Class B1. However, following amendments to the UCO, development within that class (and Class B more widely) now falls within Class E.
6. Interested parties have alleged that the proposal conflicts with DP Policy EMP8. The last paragraph of the policy states that, on sites that are not currently used for employment purposes and outside the designated employment areas and town centres, permission will not be granted for development for Class B uses, unless it would form part of a 'live-work' mixed use scheme. Although a Class E use is proposed as a result of the UCO changes, the policy clearly intends to restrict new employment uses such as offices in certain locations. It therefore remains relevant for the purposes of determining the appeal.
7. Firm and substantive evidence indicating that the site is or was last used for employment purposes, or that it is within an employment area or town centre as designated by the development plan, has not been provided. As set out above, it would be inappropriate for the proposal to be amended into a live-work unit during the appeal process. Therefore, based on the information before me, the proposal conflicts with DP Policy EMP8 and thus the site is an inappropriate location for employment development.
8. Interested parties have also referred to DP Policy R1. It states that the Council will require development to take place on land which is 'previously used or developed', and that it will only be permitted on 'greenfield' land where it can be demonstrated that no suitable opportunities exist on previously used or developed land. However, I have not been referred to any definitions of 'greenfield' or 'previously used' land. Moreover, the Council states that, although gardens in built-up areas are not previously developed land, this does not mean that they cannot be built on in any circumstances. Ultimately, as any findings in respect of the policy would not address the proposal's conflict with DP Policy EMP8, it is not necessary that I reach a conclusion on the matter.

9. The site is in an inappropriate location for employment development. It conflicts with DP Policy EMP8, the purpose of which is identified above.

Access, parking and servicing

10. The site is located adjacent to and accessed from a public footpath which connects Oak Lane and Starling Lane. Bollards prevent car and larger sized vehicles travelling along the part of the footpath beside the site. The appellant has highlighted that it would be illegal for vehicles to block the footpath. Oak Lane is privately owned and narrow such that there are no opportunities for parking along it. Starling Lane is subject to restrictions which prevent parking from Monday to Friday between 11am and 1pm. It also features a turning head next to the part of the footpath leading to the site. Other nearby roads are also subject to restrictions, including Thrush Lane, Acorn Lane and Tolmers Road.
11. Policy M14 of the DP requires parking provision for new development to accord with the standards within the Parking Standards Supplementary Planning Guidance (PS). The policy states that the standards represent the maximum allowable provision, except for cycle parking and car parking for disabled people, where minimum levels apply. It also states that the maximum allowable provision may be reduced in accessible locations.
12. The Council sets out that the use of maximum provision levels is not consistent with the Framework and has therefore produced an Interim Policy for Car Parking Standards, which explains that parking will be assessed on a case-by-case basis and the provision levels in the PS will be treated as guidelines. However, I do not take this to apply to the minimum provision levels for parking for disabled persons.
13. The highway statement suggests that the development is likely to accommodate between four and six employees. However, the appellant has subsequently suggested that there would be fewer staff. The Council calculates that two parking spaces are required for the proposal to accord with the PS.
14. Based on the appellant's highway statement and my observations, the site is within walking and cycling distance of various services and facilities, including bus and rail services, and car parks near the centre of Cuffley. Additionally, a parking survey has been undertaken which indicates that there is little demand for on-street along Starling Lane. Moreover, most of the properties in the vicinity feature large driveways that can accommodate multiple parked cars. As such, even if there were six employees and many visitors travelling to and from the site by car, there would be sufficient capacity for parking on Starling Lane.
15. Although there would be no parking available near the site around the middle of each workday, visitors could be made aware of the parking restrictions, and meetings could be organised around those times. The restrictions would mostly affect employees working to either side of and during 11am and 1pm, who would have to park their cars away from the site and walk to it, or travel using sustainable transport modes. However, this would be an inconvenience rather than a matter resulting in significant highway issues.
16. Notwithstanding this, there is no specified end user for the development, and it is important that adequate access and parking arrangements are provided for disabled persons. The nearest appropriate places to park on-street would be in Starling Lane, set somewhat back from the footpath and the turning head so

that access to the footpath would not be blocked and vehicles could turn uninhibited. The entrance to the proposed building would be a substantial distance from cars parked in such locations and thus I cannot be sure that the development would be accessible for all who may wish or need to travel to it.

17. The appellant contends that many offices operate without the needs of its clients to visit in person. However, it cannot be ascertained if that would be the case for this proposal in the absence of a known occupier. It would also not address the needs of any disabled employees. I note that there would likely be sufficient space for some forms of mobility vehicles to move between the bollards. It has also been advanced that the site's employees could assist any disabled persons parking near the site. However, the proposed building would nevertheless be a significant distance from cars parked on-street, and reliance on those measures may be inappropriate in practice and result in access difficulties for some individuals. The proposal would thus provide inadequate access and parking arrangements for disabled persons.
18. Satisfactory access and parking facilities could be provided for cyclists. I am satisfied that the footpath is sufficiently wide to accommodate both pedestrians and cyclists safely, particularly as cyclists on approach to the site are likely to travel slowly. A travel plan has also been submitted. However, these matters do not address the access and parking issues identified.
19. Details have been provided which indicate that waste collection vehicles could turn around in Starling Lane and private collections would occur. In addition, delivery times could be restricted to avoid the parking restrictions. Ambulances and smaller emergency vehicles would be able to travel up to the bollards in an emergency. Moreover, the amended drawings show that the distance between the proposed building and fire tenders parked on either Starling Lane or Oak Lane would be adequate. The servicing arrangements would therefore be acceptable. Additionally, construction arrangements could be secured by a condition. However, the issues identified remain.
20. The development would fail to provide adequate access and parking arrangements for disabled persons. It conflicts with DP Policy M14, which imposes parking standards for development. It also conflicts with Chapter 9 of the Framework which, amongst other things, sets out that safe and suitable access should be achieved for all users and the needs of people with disabilities and reduced mobility should be addressed.
21. The Council contends that there is also contrary to DP Policies D1 and D2 in respect of this main issue. However, as these policies relate principally to design matters, I find no direct conflict with them.

Other Matters

22. The Council contends that on-street parking generated by the proposal would harm the character and appearance of the area. However, the parking survey indicates that some on-street parking occasionally occurs, and I do not consider that so many vehicles would park on-street that the character and appearance of the area would be adversely affected.
23. The proposal would bring the site back into use and provide a location from which local people might work. It would also encourage the uptake of sustainable modes of transport as a result of the parking arrangements.

However, these matters do not outweigh the proposal's conflict with the development plan.

24. Several other matters have been raised by interested parties objecting to the development. However, due to my findings on the main issues, it is not necessary that I reach views on the matters raised, as these would have no bearing on the outcome of the appeal.

Conclusion

25. The proposal is contrary to the development plan. There are no material considerations which outweigh the conflict with the development plan.

26. Accordingly, the appeal is dismissed.

Mark Philpott

INSPECTOR