



Appeal Decision

Site visit made on 2 February 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 4 July 2022

Appeal Ref: APP/Z4310/W/21/3280749

Derby Rd House, 143-145 Derby Road, Liverpool L20 8LP

- 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 Gorsia against the decision of Liverpool City Council.
 - The application Ref 20F/1538, dated 29 June 2020, was refused by notice dated 22 February 2021.
 - The development proposed is use as 9 bed short stay serviced accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Issues

2. The decision notice refers to Policies E1 and E8 of the Liverpool Unitary Development Plan. These have now been superseded and the Liverpool Local Plan 2013-2033 was adopted on 26 January 2022. The parties have been given the opportunity to comment on the updated policy position and these comments have been taken into account.
3. I have taken the description of development from the application form. I note that a different description was suggested by the Council on receipt of the application referring to a change of use from bed and breakfast, and that similar wording was used on both the decision notice and appeal form. However, given the uncertainty regarding the status of the bed and breakfast use I have used the original application description.

Main Issues

4. The main issues are whether the location of the proposed development would be acceptable with regard to relevant employment land policies and policies relating to the provision of hotels and other types of ancillary accommodation.

Reasons

5. The site comprises a three storey former public house at the corner of Lodwick Street and Derby Road. While the surrounding area has a range of uses it is primarily defined by its industrial context with transport and vehicle showrooms, hiring and parking facilities in close proximity to the site and lining the wide highway.
6. The site is within an area designated as a Primarily Industrial Area (PIA). Policy EC2 of the Liverpool Local Plan 2013 - 2033 (the Local Plan) states that new employment development will be directed towards PIAs. These areas will

primarily be protected for industrial and business uses, with planning permission granted for Use Classes E(g), B2 and B8 and, where appropriate, employment generating sui-generis uses associated with industrial or business areas.

7. To justify the release of such employment land for other uses, Policy EC2(3) states that proposals for non-industrial purposes within a PIA must meet one of two tests. Namely that: (a) the proposed use is complementary to the primary industrial/ business use of the area providing a small-scale ancillary service to meet the day-to-day needs of local employees, subject to compliance with other plan policies; or (b) there is no reasonable prospect of the site being used for Use Classes E(g), B2 and B8.
8. Policy EC2(3)(b) requires evidence demonstrating the site has been appropriately marketed for the stated use classes for at least 24 months. I have no substantive evidence to demonstrate that this has been carried out.
9. With regards to Policy EC2(3)(a), the appellant states that the proposal would complement the area for nearby business and leisure travellers, and provide resting facilities for haulage and delivery drivers in connection with the nearby ports. However, under the current policy any ancillary service in this location must relate to the day to day needs of local employees. Explanatory text cites the example of a creche or café, albeit that this is not an exhaustive list.
10. In this respect, I am not convinced there are needs of employees of surrounding businesses that the proposal would meet in the same manner as the examples. It would not provide a similar ancillary service that would enhance the appeal of the employment area to the local workforce, who would have little need for the proposal. While it could meet the needs of the business travellers and drivers identified, by their very nature these groups would not be local employees. In addition, although temporary workers accommodation could be provided, being temporary this would not meet a day to day need.
11. I therefore do not consider the proposal would be complementary to the primary industrial/ business use of the area. While it would not replace a current employment use at the site and I have no evidence that it would jeopardise the continued operation of surrounding existing businesses, it would nonetheless be an incompatible use within the PIA in its own right.
12. In any event, Policy EC2(3)(a) is subject to compliance with other plan policies. The Council has referred to Policy EC4, which states at paragraph 3 that the provision of hotels and other types of ancillary accommodation will be supported where it: is located within a designated centre; would not compromise the delivery of other objectives for the area; would not undermine the growth of business uses; is in a highly accessible location; and is of high-quality design.
13. In this regard I note the Council has not raised issue with the design of the proposal. I also observed it to be in an accessible location. Bus stops and train stations are within walking distance, providing convenient links to the city. I also note the appellant's comments regarding the upgraded pavements, street lighting, crossings and cycle routes in addition to nearby services such as a café, retail store and permit free parking.

14. However, with regards to the delivery of other objectives for the area, the PIA seeks to protect land within it for industrial, business, and suitable complementary uses. I have outlined above that the proposal would fail to do so, compromising the delivery of this objective. In any event, Policy EC4(3) also requires that such accommodation is in a designated centre. The Council has stated that this is not the case for the proposal and the appellant has not refuted this.
15. The proposal would therefore not meet all the tests of Policy EC4(3), such that it would not be supported at the site. This would not be an appropriate setting for guest accommodation, being in a PIA outside of a designated centre.
16. For the reasons given above I find that the location of the proposal would not be acceptable with regard to relevant employment land policies and policies relating to the provision of hotels and other types of ancillary accommodation. In this regard it would fail to comply with Policies EC2 and EC4 of the Local Plan.

Other Matters

17. I acknowledge planning permission was granted at the site for use as a Class C1 12 room bed and breakfast in 2011. However, there appears to be some uncertainty surrounding whether this use was implemented. The appellant acknowledges certain works were carried out but that the bed and breakfast use did not commence and, in the Design and Access Statement, states that the permission has expired. The Council also contends that this permission was not implemented. Given the uncertainty regarding the status of this permission, I attach limited weight to it. While it indicated that at that point in time Class C1 use was acceptable at the site, it was decided under planning policies that have since been superseded.
18. I further acknowledge that during pre-application discussions for another application at the site, it was stated that short-stay serviced accommodation was acceptable in principle. However, given the pre-application nature of these discussions, relating to a different application, and under the context of now outdated planning policies, limited weight is also attached to this. While the formal application following those discussions was not refused for the same reasons as the current application subject to this appeal, each case must be decided on its own merits.
19. The proposal would have some benefits. It would provide a level of employment and its customers and staff could provide some support to local businesses such as the nearby café and retail shop. In addition, it would regenerate a disused site and contribute to a mix of hotel choices in the wider area. However, these benefits would be of limited weight due to the small scale of the proposal. In any event, even when taken together they would not outweigh the harm arising through the identified policy conflict.
20. Reference has been made to the fact that many port and ferry docks around the country have hotels and similar accommodation nearby. However, each application must be decided on its own site specific circumstances. In this case, this involves the site being in a PIA where, in accordance with the local policy, such a use would not be compatible.

21. The appellant's frustrations with regards to pre application discussions with the Council are also acknowledged. I further acknowledge that no objections were received from surrounding local businesses. However, these do not affect my considerations of the planning merits of this case.

Conclusion

22. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR