



Appeal Decision

Site visit made on 9 August 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2022

Appeal Ref: APP/P4605/W/22/3294987

30 - 31 Lower Tower Street, Newtown, Birmingham B19 3NH

- 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 Mokonen Tsige against the decision of Birmingham City Council.
 - The application Ref 2021/05813/PA, dated 30 August 2021, was refused by notice dated 13 December 2021.
 - The development was originally described as proposed change of use from B8 to Sui Generis (previously Class A4- bar restaurant). Proposed internal alterations to form reception area, bar area, kitchen and food prep areas. Ingress and egress alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The information before me suggests that this is a retrospective application. For the avoidance of doubt, I have assessed the appeal proposal and based my decision on the plans before me.

Main Issue

3. The main issue is whether or not the proposed change of use has been satisfactorily justified.

Reasons

4. The appeal site comprises a two-storey building located within a core employment area. The surrounding area is characterised by primarily factories, warehouses and offices. Policy TP19 of the Birmingham Development Plan (2017) sets out that applications for uses outside the employment uses specified will not be supported unless an exceptional justification exists.
5. The appellant has drawn my attention to paragraph 82 d) of the National Planning Policy Framework (the Framework). They highlight that despite efforts to lease the building for B8 or similar use, the building has been vacant for nearly four years. They consider in the current economic climate that there is no requirement for this industrial use and the proposed use would provide employment, stimulate the area and ethnic diversity. They also assert that a number of similar use premises, within the immediate area, have changed use to Sui Generis.
6. The Council state that there have not been any approved similar uses on Lower Tower Street. No robust evidence has been submitted to demonstrate that the

premises has been appropriately marketed to determine whether the market rate was suitable for the type, use and for an appropriate time period. Furthermore, no compelling evidence has been submitted to demonstrate that the scheme would employ a similar number of people compared to the previous use, as suggested by the appellant.

7. The appellant's case does not demonstrate that there is a sufficient supply of land for employment uses to support the needs of businesses and they have not satisfactorily justified the proposed loss of employment space. The proposed use would not accord with policy TP19, and the appellant has not set out an exceptional justification to justify the change of use. Therefore, although the appeal site comprises a small proportion of employment space in the city, the change of use would harm the long term employment and economic regeneration activities of the surrounding established industrial employment uses by virtue of the site's location within a core employment area.
8. The Council's Environmental Pollution Control officer highlight that the submitted information does not indicate the location of extract equipment or provide sufficient information relating to noise, access to the premises and use of the courtyard. The appellant therefore has not provided evidence to demonstrate that the proposal would have an acceptable impact on the surrounding area. I do not consider such details can be conditioned as they are required to assess the impact of the change of use.
9. For these reasons, the proposed change of use, and loss of employment space, has not been satisfactorily justified. Consequently, the proposed development would be contrary to Policies TP19 and GA1.3 of the Birmingham Development Plan (2017). These seek, amongst other matters, to ensure that there is a sufficient supply of land for employment uses to support the needs of businesses. It would also not comply with section 6 of the Framework which seeks to build a strong, competitive economy.

Conclusion

10. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR