



Appeal Decision

Site visit made on 7 February 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/Z2260/W/21/3285968

91 Maple Leaf Business Park, Ramsgate CT12 5GD

- 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 Gary Gould against the decision of Thanet District Council.
 - The application Ref F/TH/20/0559, dated 29 April 2020, was refused by notice dated 28 July 2021.
 - The development proposed is the change of use of Micro Brewery (Use Class B1, B2 and B8) to Micro Brewery and Drinking Establishment (Use Class B1, B2, B8 and A4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out in the application form, I have used the Council's description of development above, also set out within the appellant's appeal form, as this is more accurate and concise.
3. I note that the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1 September 2020, removing Class A4. As such, the drinking establishment is now classed as a sui generis use. Class B now falls under Class E. Nevertheless, these changes do not affect the substance of the appeal or the proposal before me.
4. At the time of my visit, some works appeared to have taken place. Regardless of what has been constructed to date, I have determined this appeal based on the plans before me.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the supply of employment land;
 - the effect of the proposed development on the vitality and viability of the district's town centres; and
 - whether the location of the site is appropriate for a community use.

Reasons

Employment land

6. The appeal site comprises a two-storey industrial building accommodating a micro-brewery. The site is located within an established industrial estate known as Maple Leaf Business Park.
7. Policy SP05 of the Thanet Local Plan (LP, adopted 2020) sets out the employment land strategy for the area. It states that sites within the district which are allocated for business and employment generating purposes should be restricted to what was use class B1 (business), along with B2 (general industry) and B8 (storage and distribution).
8. LP Policy E01 sets out the approach to safeguarding employment land. It states that land which is currently in use or allocated for employment development will be retained and safeguarded from changes to other types of development, except where: it has been demonstrated that the site is no longer suitable or viable for employment purposes; that it would not undermine economic growth; result in a significant reduction in land available for employment; and would not prejudice existing nearby businesses.
9. The appellant sets out that the drinking establishment element would form only a small part of the business, with 90% of the building remaining as micro-brewery. However, based on the submitted floorplans, it is clear that more than half of the existing unit would be used for drinking establishment purposes, including a ground floor taproom and first floor seating area. The amount of floorspace given over to the drinking establishment, as illustrated in the submitted plans, would go beyond what could reasonably be described as ancillary to the brewery, or *de minimis*, as argued by the appellant.
10. Whilst I acknowledge that the proposed development would create an additional job, would unlikely prejudice existing nearby businesses and would not harm the living conditions of any neighbours, it would involve the change of use of a building within a designated employment area that would not fall within a B1 (now class E(g)), B2 or B8 use class. This would result in a harmful loss of floorspace available for purely employment purposes. I have no details before me, such as an independent appraisal, demonstrating the site is no longer suitable or viable for employment purposes. Moreover, the appellant's suggested condition would not mitigate the adverse impacts of the development.
11. For the above reasons, the evidence before me does not clearly demonstrate that the premises are unsuitable for ongoing employment purposes. The proposed development would therefore be contrary to the relevant provisions of LP Policies SP05, SP06 and E01, which in summary seek to retain and enhance employment sites. This is in a similar vein to paragraph 83 of the National Planning Policy Framework (the Framework) insofar as the locational requirements of different sectors are concerned.
12. The appellant also makes reference to LP Policy SP24. However, this policy relates to development on non-allocated sites in the countryside. This is not relevant to this particular case as the site is allocated.

Town centre uses

13. LP Policy E05 promotes the vitality and viability of the district's town centres by directing main town centre uses towards them. It sets out that where this is not possible due to size, format or layout, these uses should be positioned in edge of town centre locations or employment land designated for flexible uses.
14. Outside of such areas, a sequential test should be provided, demonstrating that no sequentially preferable locations within the catchment of the proposed development are available. The proposed development involves a main town centre use, located outside of a town centre location and within land allocated for employment use. No assessment of more sequentially preferable locations has been provided in support of the proposed development.
15. Whilst I appreciate that the siting of the drinking establishment within the same unit as the micro-brewery may complement the existing business and would provide adequate space for its loading and operations, the need for the use in this particular location has not been clearly justified. I have found that the proposed drinking establishment would not be ancillary to the main use and therefore I am satisfied that a sequential test is required in this instance.
16. My attention is drawn to similar uses at Wantsome Brewery, Ramsgate Brewery Taproom, North Down Taproom and Goodies Taproom. However, I have limited information before me as to the context or location of those businesses. As such, I am unable to draw comparisons between them and the appeal site, including whether or not they fall within a designated employment area or their relationship with town centres. I have therefore considered the appeal before me on its own individual circumstances.
17. For the above reasons, I conclude that in the absence of a sequential test, it cannot be demonstrated that there are no sequentially preferable sites available which would protect the vitality and viability of the district's town centres. The proposed development would be contrary to the relevant provisions of LP Policy E05, which in summary promotes the vitality and viability of town centres. This is in a similar vein to paragraphs 87 and 88 of the Framework insofar as the sequential test for town centre uses is concerned.

Community use

18. The proposed development would be a recognised community use. LP Policy CM01 requires that proposals for new community facilities are provided with adequate parking and operational space, are accessible by walking or cycling and are located within or adjacent to the community they serve.
19. The appeal site is located a considerable distance away from the nearest settlements by foot or cycle. I acknowledge that there are stretches of footway between the site and Minster which could be, in part, used to reach the micro-brewery. However, that route is not sufficient to rely on, particularly as it is generally along a busy main road, involving the need to cross the road at multiple locations and is, in part, broken. Moreover, there is no substantive evidence before me in respect of the frequency of services provided by any nearby bus stops.

20. Paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural locations. However, in this location, the users of the community use would be highly reliant on the use of private vehicles to access it due to a lack of satisfactory cycling and walking routes and a lack of public transport facilities within a reasonable distance of the site.
21. I acknowledge that a proportion of users may come in the form of business park employees. Those customers would, in all likelihood, already be located within the vicinity of the site, having travelled to work earlier in the day. However, I have no substantive evidence before me to demonstrate to what degree that might be the case.
22. For the above reasons, I conclude that the appeal site would form an inappropriate location for a community use, contrary to the relevant provisions of LP Policies SP43, SP44, E13, CM01, TP02 and TP03. These policies, in summary, seek to promote development in sustainable locations. This is in a similar vein to the objectives of paragraph 104(c) of the Framework, which says that transport issues should be considered from the earliest stages of development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued.

Other Matters

23. The appellant sets out that the site is not within a conservation area and that the proposed development would be of a high-quality design which would respect the character of the area¹ and make efficient use of an established building. These matters are not in dispute between the appellant and Council, and I have no reason to disagree with those findings. Nevertheless, these matters, nor the lack of objection from the Parish Council, outweigh the identified harm.
24. The proposed development would offer benefits, including an economic benefit in the provision of additional employment and a social benefit in providing a new community facility. However, the appellant sets out that there would be only one additional employee and these limited public benefits would not outweigh the harm identified.
25. I note policy support for a prosperous rural economy and the sustainable growth of all types of businesses in rural areas. I also note the Framework's promotion of an effective use of land, ensuring that sites are optimised and that, in this case, an existing building would be retrofitted. Nevertheless, the support for rural business and sustainable development is not at the cost of the vitality and viability of town centres or the protection of employment land. These matters do not therefore outweigh the identified harm.

Conclusion

26. For the reasons above, and having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price INSPECTOR

¹ With reference to LP Policy QD02