



Appeal Decision

Site visit made on 6 June 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2023

Appeal Ref: APP/W3520/W/22/3311666

Office Building at the former Stowmarket Caravan Site, Bury Road, Stowmarket IP14 1JF

- 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 G Lebbon against the decision of Mid Suffolk District Council.
 - The application Ref DC/22/00317, dated 20 January 2022, was refused by notice dated 31 August 2022.
 - The development is described as “proposed change of use of office building to residential dwelling”.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The change of use from an office building to a dwelling has already been completed and was occupied as a dwelling at the time of my site visit. Therefore, I am considering this appeal retrospectively.
3. The Council is in the process of producing a Joint Local Plan with Babergh District Council. Modifications have been made to emerging Policies LP10 – Change from Employment Uses, LP15 – Environmental Protection and Conservation, and LP27 – Flood Risk and Vulnerability, which are the most relevant for the determination of this appeal. The main modifications have been consulted upon however, they could be subject to further change, and I have not been provided with a timeframe for the likely adoption of the emerging plan. The emerging plan can therefore only be afforded limited weight at this time.

Main Issues

4. The main issues are the effect of the development on:
 - a) the loss of an existing employment use;
 - b) existing employment uses in the surrounding area;
 - c) the living conditions of the occupiers of the host building, with particular reference to noise and disturbance; and
 - d) flood risk.

Reasons

Loss of Employment Use

5. The last use of the appeal building was as an office. It is proposed to change the use of the appeal site from offices to a dwelling; a non-employment generating activity. I have not been directed to any evidence that the office use gave rise to adverse environmental nuisance or traffic problems, or that the site was unsightly to the detriment of adjacent buildings or the character or appearance of the surrounding area.
6. The appellant states they have been unable to attract a tenant for the office use, particularly due to the effects of Covid-19 and more people subsequently working from home. However, no evidence has been provided of the marketing that took place.
7. The appellant has directed me to the Gateway 14 development that is under construction on the outskirts of Stowmarket that will provide up to 2.36 million square feet of commercial floorspace. While Gateway 14 would increase the amount of commercial floorspace in the district, no evidence has been submitted to substantiate that the loss of the appeal building for office use would have no material impact on the local economy, particularly due to its close proximity to the centre of Stowmarket.
8. In reference to the first main issue, the proposed development would result in the loss of an existing employment use. It would therefore conflict with Saved Policy E6 of the Mid Suffolk Local Plan, adopted 1998 ('LP') which recognises the importance of existing commercial sites as providing local employment opportunities; and that applications for the change of use of existing premises to non-employment generating activities will be expected to provide a significant benefit for the surrounding environment, particularly in terms of improved residential amenity or traffic safety. It would also conflict with Section 6 of the National Planning Policy Framework ('the Framework') that seeks to build a strong, competitive economy.

Existing Employment Uses

9. The appeal site is surrounded by employment/commercial uses to the north, east and west. To the north of the appeal site is a Lidl supermarket. Its car park borders the appeal site's northern boundary with vehicles parking adjacent to its private amenity space and in close proximity of some of the dwelling's windows. Also, it is likely that large delivery vehicles would travel in close proximity of the appeal site to access the delivery bay to the rear of the building.
10. Adjacent to the southern boundary of the appeal site is a flooring shop with a showroom to the front. A storage/delivery area is located to the rear of the building that is adjacent to the host building's private amenity space and some of its windows. Furthermore, fans/plant are positioned along the northern elevation of the building, that appear to overhang the front garden of the appeal site.
11. A large area of land to the south and east of the appeal site is commercial and, at the time of my site visit, included such uses as a hot food takeaway van, vehicle sales, a hand car wash, HGV and other forms of vehicle driving training, and a building supplies and plant hire company. Also, during my site visit,

there were frequent vehicle movements of various sizes, although I recognise that this was a snapshot in time. Furthermore, I have insufficient information of the operation of these uses, hours of deliveries, and whether the opening hours/deliveries are restricted. Consequently, the siting of the dwelling could conflict with the operation of the existing commercial uses.

12. From the information before me, I acknowledge that the appeal building has been occupied as a dwelling for approximately two years and the appellant states that the existing commercial properties have not been prejudiced during this time. The appellant has also indicated that no objections have been received from the adjacent commercial uses to the change of use. However, a lack of representations from adjacent users does not infer no objection. Furthermore, I must be satisfied that the use of the building as a dwelling would not conflict with the operation of the surrounding businesses throughout its lifetime.
13. In reference to the second main issue, the proposed development would have an adverse effect on existing employment uses in the surrounding area. It would therefore conflict with Saved Policy E4 of the LP which seeks to refuse proposals for development adjacent to or within existing industrial/business areas which would likely prejudice the continued use of those areas for primarily industrial or commercial purposes.
14. It would also conflict with Section 6 of the Framework that seeks to build a strong, competitive economy, and paragraph 187 of the Framework that seeks to ensure that new development can be integrated effectively with existing businesses and that existing businesses and facilities should not have unreasonable restrictions placed upon them as a result of development permitted after they were established.

Living Conditions of the Occupiers of the Host Building

15. The appellant states that the living conditions of the building's occupiers have not been affected by noise or disturbance associated with the dwelling's proximity to adjacent businesses and the heavily trafficked A1308 Bury Road to the west of the appeal site. However, this has not been substantiated with evidence. Furthermore, I must be satisfied that the living conditions of all potential occupiers of the dwelling would not be adversely affected by noise and disturbance throughout the lifetime of the development.
16. The potential noise and disturbance of the surrounding businesses and their associated deliveries, and the potential noise and disturbance of the A1308 Bury Road have not been measured, nor has a noise impact assessment been produced. Therefore, I am unable to conclude that the occupiers of the dwelling would not be harmed by noise and disturbance, or that appropriate measures could be put in place to mitigate against any potential issues.
17. In reference to the third main issue, insufficient information has been provided to determine that the proposed development would not harm the living conditions of the occupiers of the host dwelling, with particular reference to noise and disturbance. It would therefore conflict with paragraph 185 of the Framework that, amongst other things, seeks to ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.

18. The Council's reason for refusal stated that the proposal would also conflict with Saved Policy H16 of the LP and Section 15 of the Framework. However, Saved LP Policy H16 seeks to protect the existing amenity of primarily residential areas and Section 15 of the Framework relates to conserving and enhancing the natural environment, neither of which are relevant in respect of this main issue.

Flood Risk

19. According to the Environment Agency's maps, the appeal site is partially located in both Flood Zone 1 and Flood Zone 2, is at a low risk of surface water flooding, and is at risk of flooding from reservoirs when there is also flooding from rivers. Consequently, a Flood Risk Assessment¹ supports the proposal, which I have taken into consideration in the determination of this appeal.
20. I acknowledge that the building itself would not be at risk of fluvial flooding due to the ground floor levels set above the height of all modelled events up to and including the worst-case climate change 1 in 1000-year event. However, limited information has been provided regarding the incorporation of sustainable urban drainage systems (SUDS), that any residual risk can be safely managed, whether the proposal would increase flood risk elsewhere, or detailed and precise safe access and escape routes as part of an agreed emergency plan in the event of fluvial, surface water and reservoir flooding.
21. I acknowledge that the appeal site comprises an existing building and that it is located within an urban setting with other dwellings nearby. The appellant also asserts that the building has never flooded. However, this does not forego the development's requirement to demonstrate adherence with local and national planning policy on flood risk, particularly as the change of use would increase the vulnerability classification from 'less vulnerable' to 'more vulnerable', and as older properties are not likely to have previously being subject to a FRA and appropriate mitigation measures.
22. In reference to the fourth main issue, insufficient information has been provided to ascertain the effect of the proposed development on flood risk. It would therefore conflict with Policy CS4 of the Mid Suffolk District Core Strategy Development Plan Document, adopted 2008 ('CS') that, amongst other things, seeks to support development proposals that avoid areas of current and future flood risk, which do not increase flooding elsewhere, seek the implementation of SUDS where feasible, and adopt the precautionary principle to development proposals. It would also conflict with paragraph 2.5 of the Suffolk Flood Risk Management Strategy, adopted 2016, and Section 14 of the Framework, particularly paragraph 159.

Other Matters

23. The appellant has advised that the building was previously a dwelling prior to it being changed to offices. However, I have not been directed to any planning permission for such a change of use, nor any lawful development certificate. Furthermore, I have not been advised of the dates when such a use was in place or the uses that surrounded the property at that time for me to determine if the proposal is directly comparable. In any event, I must determine the development on its own merits.

¹ Proposed Change of Use of Bury Old Road, Stowmarket, Suffolk, Flood Risk Assessment, March 2022 (Report Ref: 2895/RE/03-22-01), produced by Evans Rivers and Coastal

24. The Council can demonstrate a housing land supply of deliverable sites significantly in excess of five years. However, the figure is not a maximum. Therefore, the provision of one additional dwelling weighs in favour of the proposal and would make a contribution, albeit small, to the Government's objective of significantly boosting the supply of new homes. However, the weight to be given to this benefit is offset by the loss of an existing employment use.
25. I recognise that the appeal site is located within the settlement boundary of Stowmarket where new development is encouraged. However, this does not suggest that all sites within the settlement boundary are suitable for housing development. I acknowledge that the development provides a family home within proximity of Stowmarket town centre, services and facilities. However, it has not been demonstrated that there is a need for this type of housing. The appellant suggests that the proposal has brought the building back into use. However, I have not been provided with evidence that the building was empty for an extended period of time or that the building could not continue to be occupied for employment purposes.
26. The appellant has stated that Policy E5 of the LP is out-of-date. However, the Council's reasons for refusal do not reference this policy. Therefore, it is not relevant to the appeal proposal, nor is it incumbent upon me to consider this policy further.

Conclusion

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

A Berry

INSPECTOR