



Appeal Decision

Site visit made on 4 July 2023

by Siobhan Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2023

Appeal Ref: APP/V0510/C/22/3294897

Land known as Unit 14 Oak Lane Business Park, 17 Oak Lane, Littleport, Ely, Cambridgeshire, CB6 1RS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Oak Lane Business Park Limited against an enforcement notice issued by East Cambridgeshire District Council.
 - The notice, numbered USE/18/00006ENU14, was issued on 9 February 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the change of use of the unit known as Unit 14 from existing agricultural use to Class E (g) use as defined in The Town and Country Planning (Use Classes) Order 1987 (as amended) for the manufacture of candles.
 - The requirements of the notice are to: Cease the use of Unit 14 for the manufacture of candles, and permanently remove all equipment and other items relating to the manufacture, storage and sale of candles from the unit.
 - The period for compliance with the requirement is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the change of use from agricultural use to Use Class E(g) for the manufacture of candles at Unit 14 Oak Lane Business Park, 17 Oak Lane, Littleport, Ely, Cambridgeshire, CB6 1RS as shown on the plan attached to the notice and subject to the conditions in the attached Schedule.

Procedural Matter

2. Some plans before me, in connection with other appeals on the site, show that the road directly in front of the business park is called Woodfen Road. However, all parties have referred to this road as Oak Lane so that is how I will refer to it.

The appeal on ground (a)

3. The main issues are the effect of the manufacturing of candles on (i) highway safety and car parking; (ii) the living conditions of the occupiers of nearby dwellings; (iii) and whether the location of the use promotes sustainable travel choices.

Highway Safety

4. The Council has approved the change of use of numerous units to change from agricultural to Use Classes B1 (now Class E(g)), B2 and B8 on the wider site known as Oak Lane Business Park. I could see at my visit, and from the plan attached to the enforcement notice, that the unit is very small in comparison to the wider area of surrounding business floorspace at the Oak Lane site. Therefore, any traffic generation to and from the unit would be negligible within the context with the overall business park. I note that Oak Lane is unlit and narrow with no footpaths. In the context of the existing approved floorspace, I do not consider that the potential for traffic generation from Unit 14 would have any material impact upon this lane or any other surrounding roads.
5. At the time of my visit, there was a shared car park at the front of the site with multiple unoccupied parking bays. There are also other areas of hardstanding around the site. There was no shortage of off-street places to park a car near the premises and I have no evidence that the use ever caused a car parking problem.
6. Therefore, I find no harm to highway safety. Consequently, I do not find conflict with East Cambridgeshire Local Plan (LP) Policy COM 8 which seeks to ensure that development provides adequate levels of car parking provision. Neither do I find conflict with LP Policy COM 7, EMP 4 or ENV 2 which seek to avoid adverse traffic impacts.

Living Conditions

7. The Council states that the use falls under Class E(g) of Part A to Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 and I have no reason to disagree. By definition, Class E(g) is a use, which can be carried out in any residential area without detriment to the amenity of that area.
8. I accept that vehicles have to drive past nearby dwellings on the approach to the site. However, I have already found that the amount of traffic would be negligible in comparison to that accessing the overall business park.
9. Therefore, I find no harm to the living conditions of nearby occupiers and consequently, no conflict with LP Policy ENV2 which seeks to protect residential amenity or LP Policy COM 7 which seeks to ensure that traffic is not detrimental to amenity.

Sustainable Travel

10. I saw at my visit that it is only a very short distance to the site from what appears to be the built edge of the settlement of Littleport. Therefore, in spite of the lack of footpaths and lighting, staff could arrive by cycle or they could walk. Notably, Condition 8 of Planning Permission 18/01514/FUM for other units on the same business park, required travel packs to encourage employees to travel using sustainable modes of transport or provide a car share scheme. Therefore, the Council must have considered that the site is accessible by sustainable modes of transport.
11. I therefore conclude that the site is accessible by sustainable travel choices. I therefore find no conflict with LP Policy COM 7 which seeks to promote sustainable transport choices.

Other Matters

12. I have considered the effects of allowing this appeal in conjunction with the appeal I have allowed at Unit 20¹ when considering the main issues. Both units are small in comparison to the overall site, and therefore, the cumulative increase on traffic and parking would be acceptable.

Conditions

13. The Council has suggested conditions in relation to operational hours, hours of delivery, the completion of a passing bay, external lighting, site based mobile plant to have reversing alarms, travel packs, cycle parking details, flood evacuation plan, and removal of permitted development rights to restrict the use to Class E(g) of the Use Classes Order.
14. In respect of operational hours, there could be a small element of disturbance to neighbours from the traffic accessing the business park if hours were not controlled so I have restricted opening hours.
15. I have imposed a condition relating to deliveries in the interests of the living conditions of occupiers of dwellings on Oak Lane.
16. Since the appeal was submitted, the passing bay has been provided and the Council, in its statement say that "the Council would agree that the appellants have installed the passing bay in accordance with drawings agreed by the Local Highway Authority". Therefore, such a condition is not necessary.
17. A condition is necessary to secure details of external lighting to protect ecology.
18. The suggested condition in respect of mobile plant is not necessary as I have no evidence that Class E Uses requires mobile plant.
19. I have not imposed a condition requiring a travel pack because I have no evidence that the use generates significant amounts of traffic, so it is not necessary.
20. I have imposed a condition requiring cycle parking to encourage cycling as a sustainable mode of travel.
21. I have imposed a condition requiring a flood evacuation plan in the interest of safety.
22. The National Planning Practice Guidance² says that conditions restricting changes of use may not pass the test of reasonableness or necessity. I consider that the scope of such conditions needs to be precisely defined in the same way that they should be defined for the removal of permitted development rights. I have already found that the change of use falls within Class E (c) (iii). Moving between uses defined within a Use Class does not constitute development. I am unconvinced that restricting the permission to Class E(g) is necessary. Nevertheless, I note the concerns expressed by the Council in respect of the vitality and viability of town centres in their appeal statement, and for this reason, I have prevented the use of the premises being used for the display or retail sale of goods, principally to visiting members of

¹ APP/V0510/C/22/3294899

² Paragraph: 017 Reference ID: 21a-017-20190723

the public (Class E (a)) and for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises. (Class E (b)).

Conclusion

23. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the change of use to the manufacture of candles as described in the notice.

24. The appeals on grounds (f) and (g) do not fall to be considered.

Siobhan Watson

INSPECTOR

Schedule of Conditions

- 1) The premises shall only be open for customers between the following hours:
0730 - 1800 Monday – Friday and 0730 - 1300 on a Saturday and at no time on a Sunday or on Bank or Public Holidays.
- 2) Deliveries shall be taken at or despatched from the site only between 0700 – 1900 Monday to Friday and not at any time on Saturdays, Sundays or on Bank or Public Holidays.
- 3) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before it is installed. The lighting shall be installed and operated in accordance with the approved details.
- 4) Within 3 months of the date of this decision, details of cycle parking for the unit shall be submitted to and agreed in writing with the Local Planning Authority. The details shall include number, design, location and implementation timetable. The cycle parking shall be provided in accordance with the approved details and retained thereafter.
- 5) Within 3 months of the date of this decision, details of a Flood Evacuation Plan to serve the building shall be submitted to and approved in writing by the Local Planning Authority. The Flood Evacuation Plan shall be implemented in accordance with the approved details.
- 6) The premises shall be used for Use Class E(c), (d), (e), (f), (g) and for no other purpose (including Use Class E(a) and (b) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).