



Appeal Decision

Site visit made on 10 August 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/C1760/W/22/3313587

Units B2 & B3, Manor Nursery Estate, Stockbridge Road, Timsbury, Hampshire.

- 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 Manor Nursery Estates against the decision of Test Valley Borough Council.
 - The application Ref 22/00818/FULLS, dated 23 March 2022, was refused by notice dated 4 November 2022.
 - The development proposed is described as a change of use from Use Class B1(a-c) and Use Class B8 of the Use Classes Order 1987 (as amended) to use as a boxing gymnasium within Use Class E(d).
-

Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. The effect of this amendment, amongst other things, was to revoke B1 and D2 use classes and merge them into a new Class E 'Commercial Business and Service'.
3. The application form indicates that development is complete, albeit unauthorised. My assessment of the proposal is, however, based on the plans before the Council at the time of the planning application. On this basis I will refer to the development as 'proposed' and use the future tense.

Main Issue

4. The main issue is whether sufficient information has been presented to demonstrate the proposed development would not harm the economic development needs of the area.

Reasons

5. Notwithstanding the unauthorised use of the buildings, there is no evidence to suggest the existing buildings are unlawful in any other way. On this basis the implemented permission, Test Valley Borough Council reference 19/01089/FULLS, and authorised uses associated with that permission are material to the consideration of this appeal. On this basis I consider Policy LE10 of the Test Valley Borough Local Plan (2016) ("Local Plan") to be applicable.

6. Policy LE10(a) of the Local Plan seeks to protect employment land unless, amongst other things, the land is no longer required to meet economic development needs of the area.
7. Economic circumstances can be complex, market demands change over time, and businesses create spin off employment and economic development. I acknowledge that a sport, recreation, and fitness use would generate some employment and the appellant has made some assertions regarding onsite job creation.
8. However, the economic picture presented by the appellant is not conclusive, it makes limited economic comparison between the uses and limited evidence is provided in relation to unmet demand for the authorised uses.
9. The Council confirm the appeal building was granted planning permission to meet the economic development needs of the area. In the absence of robust evidence to show these needs won't be compromised, harm would be generated, and I ascribe significant weight to this harm.
10. I have also considered the application of Policy LE16 of the Local Plan in relation to this appeal. Policy LE16(b) is triggered by the conclusions set out above, specifically displacing the authorised use, without first establishing if the authorised use is no longer required. Even if I am wrong on this point, this does not extinguish the need to comply with Policy LE10.
11. The proposed changes would be internal, and the Council has not suggested any visual harm arises. Indeed, I am not aware that the site deviates, visually, from the earlier planning consent. For these reasons any harm generated from non-compliance with Policy LE16(d) would carry limited weight.
12. There is limited evidence before me to demonstrate it would be essential for the appeal proposal to be in the countryside as required by Policy COM2(b) of the Local Plan.
13. I accept that the changes to the Use Class Order offers more flexibility within Use Class E. However, Use Class B8 - storage and distribution uses are not included within Use Class E and therefore stand separately to Class E. I therefore do not agree with the appellant that these changes cause parts of the Local Plan to be out of date in respect to this appeal.
14. Given the deliberate exclusion of Use Class B8 from Use Class E, it has not been shown that the flexibility to change between uses applies to the appeal proposal.
15. The appellant suggests that the proposal would deliver social benefits including healthier lifestyles both physically and mentally to over 80 members of varying ages. I also note that limited opportunities exist locally for boxing provision. I attach moderate weight to these benefits.
16. I acknowledge the low level of interested party objections, the Council also raised no other objections such as highway, ecology, or environmental health matters. However, the absence of harm is a neutral matter which neither weighs for nor against the proposed development.

17. In these cases, I must consider the balance with the development plan overall bearing in mind the importance of the policies which are infringed and the extent of such infringement.
18. Planning policy sets out controls regarding changes of use, in this case the applicant has not demonstrated the loss of the existing, authorised use of the buildings are no longer required to meet the economic development needs of the area and this appeal scheme would therefore conflict with the development plan taken as a whole.
19. Whilst there would be benefits associated with the development, they would not outweigh the identified harm and its associated development plan conflict. In addition, there are no suggested conditions or obligations before me which would overcome this harm.
20. Consequently, insufficient information has been presented to demonstrate the proposed development would not harm the economic development needs of the area. The proposed development would therefore conflict with the relevant provisions of Policies LE10, LE16 and COM2 of the Local Plan. These, amongst other things, seek to support the economy and meet the need for employment land.

Conclusion

21. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR