



Appeal Decision

Site visit made on 15 November 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/R2520/W/23/3321868

Cromwell Tools Ltd, Station Road, North Hykeham, Lincoln, Lincolnshire, LN6 9AL

- 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 Dan Hargreaves of Alive Church against the decision of North Kesteven District Council.
 - The application Ref 22/1052/FUL, dated 20 July 2022, was refused by notice dated 15 December 2022.
 - The development proposed is the change of use from light industrial facility to Place of Worship as a Christian Church.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Central Lincolnshire Local Plan (April 2023) (CLLP) was adopted by the Central Lincolnshire Joint Strategic Planning Committee on 13 April 2023 and replaces the previous Central Lincolnshire Local Plan (April 2017). Both main parties have had the opportunity to comment on the implications of this for the appeal and I have taken the CLLP into account in coming to my decision.
3. The Government published a revised version of the National Planning Policy Framework (the Framework) on 19 December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issues of this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.

Main Issues

4. The main issues are:
 - whether the appeal site is an appropriate location for the development, with regard to development plan policies concerning Important Established Employment Areas (IEEAs); and
 - whether the need for the proposed development outweighs any harm identified in respect of the above issue.

Reasons

Location

5. The appeal property is a large, detached commercial building set on a prominent corner plot with parking to the front and rear with both residential and commercial properties in the surrounding area. It is located at the edge of the LN6 Industrial Area, which is defined in CLLP S31 as an IEEA. The area consists of a wide variety of commercial uses, including storage, manufacturing, and office facilities.
6. Development within IEEAs is controlled by CLLP Policy S31 which states that employment floor space will primarily remain in B2 and B8 Use Classes and other business development under E(g) Use Class. Support is provided for other uses where certain criteria are met.
7. Criteria a) requires that the proposed use will generate employment. Although it has not been stated what the employment would consist of, the proposal would create 3-5 full time equivalent jobs. The Council contends that, the level of employment and associated economic activity generated by the proposed Church would be lower than would be generated by an employment use in the categories specified for the IEEA. However, CLLP Policy S31 does not specify a minimum level of employment which must be generated and as such I am satisfied that the first criteria would be met.
8. Criteria b) seeks to ensure that the proposed use, either alone or combined with other existing or proposed uses would not adversely affect the role of the employment area or introduce conflict between uses. Given the large number of other commercial properties available within the IEEA, I am satisfied that the loss of the appeal building for commercial use would not adversely affect the role of the employment area.
9. The Council considers that the proposed church would be a more sensitive user within the employment area, creating potential conflict between its users and the existing/future industrial uses in the area. However, the area is mixed with the potential for a wide variety of uses with variable levels of noise sensitivity. Moreover, there are residential properties in close proximity which have a high level of noise sensitivity.
10. Consequently, I have no substantiated evidence before me to suggest that the proposal would be any more sensitive to noise than other surrounding uses or that the proposal would preclude future development of the IEEA in line with policy. In addition, the proposal includes for acoustic upgrades which could be secured by condition. As such I am not persuaded that the proposal would create undue conflict, even when considering the future development of the site on the northern side of Freeman Road.
11. I note that there would be a large number of visitors to the site which would create numerous pedestrian movements in and around the Freeman Road area. However, there is ample parking available both on site and on street. The site is also in an accessible location with good public transport links and cycle routes. Further, the Council have not raised highway safety as a reason for refusal and I have no substantiated evidence to suggest that an increase in pedestrians would increase potential conflict with other users of the IEEA.

12. The parties agree that the proposal meets criterion c) which requires that adequate parking is provided and that there are no other unacceptable impacts upon amenity. Given the information provided regarding parking and acoustics, I see no reason to disagree.
13. The final criterion requires evidence to be provided clearly demonstrating that the site has been appropriately marketed for a continuous period of 12 months or more without successful conclusion on terms that reflect the lawful use and condition of the premises. The appellant asserts that the property has been marketed for a significant period in excess of 12 months. However, I have not been provided with any details of the listing. Whilst there are numerous other commercial properties available in the IEEA, I cannot be certain that the continued use of the appeal site for commercial uses would not be successful if appropriate marketing took place.
14. Consequently, I conclude that the appeal site would not be a suitable location for the proposed development, with regard to the development plan policies concerning IEEAs. The proposal would conflict with Policies S28 and S31 of the CLLP which seek to protect the most important employment land, including IEEAs. There would also be conflict with the Framework which requires significant weight to be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Need for the proposed development

15. The proposal would be used by a local church to deliver services, worship, and community projects. As such, I have had regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. The duty includes having regard to the need to eliminate discrimination, harassment, and advance equality of opportunity between those sharing relevant protected characteristics and those who do not.
16. The church congregation currently comprises between 150-200 local attendees and has become too large for the hired venues within the local area. The proposal would provide a permanent premises, large enough for the growing congregation in an accessible location and would generate employment. Whilst the appellant asserts that they have actively explored other opportunities within the area, I have not been provided with details of previous locations or any explanation as to why they were unsuccessful. Further, I have no substantiated evidence before me to indicate that the proposal before me would be the only way for the required facilities to be provided within the area.
17. Therefore, mindful that I have found that the appeal site would not be a suitable location for the proposed development, I am satisfied that the legitimate policy aim to protect against the loss of business uses within IEEAs can only be safeguarded by a dismissal and PSED considerations do not lead me to an alternative view in this case. Moreover, following careful consideration of the duty to advance equality of opportunity, I am satisfied that the impact of dismissing this appeal would be necessary, justified, and proportionate.

Conclusion

18. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations, including the provisions in the Framework and the benefits of the proposal which indicate that the development should be determined other than in accordance with it. Therefore, the appeal is dismissed.

K Allen

INSPECTOR