



Appeal Decision

Site visit made on 16 January 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Appeal Ref: APP/Z2260/W/23/3325529

Unit 3, Hornet Close, Pysons Road Industrial Estate, Broadstairs, Kent CT10 2YD

- 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 Miss Jasmine King, Elite Dance Academy Ltd, against the decision of Thanet District Council.
 - The application Ref F/TH/23/0406, dated 17 March 2023, was refused by notice dated 18 May 2023.
 - The development proposed is the change of use of B8 industrial unit to Class E dance school/studio.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023, during the consideration of the appeal. The Council and the appellant were given the opportunity to comment upon the revisions insofar as they relate to the appeal.
3. It was brought to my attention that an updated Broadstairs and St Peter's Neighbourhood Plan was adopted in December 2023. The Council and the appellant were given the opportunity to comment and I have taken any comments received into account.

Main Issues

4. The main issues are the effect of the proposal on:
 - The availability of land allocated and safeguarded for employment uses.
 - The vitality and viability of the district's town centres.
 - The safety and efficiency of the highway network.

Reasons

Employment land

5. The appeal site is located on Pysons Road Industrial Estate, a substantial estate comprising a range of commercial uses. Hornet Close itself contains a self-storage facility, two plumbers' merchants, a brewery with associated storage and tap room offering retail/wholesale sales. Unit 3 is located between a plumbers' merchant and the tap room and opposite the self-storage units.

6. Policy E01 of Thanet District Council Local Plan 2020 (Thanet Local Plan) aims to ensure there is a sufficient supply of premises suitable for employment generating uses which the Policy defines as those within Classes B1, B2 and B8. Further to the 2020 changes to the Town and Country Planning (Use Classes) Order 1987, the B1 uses are now classed as E(g)(i), E(g)(ii) and E(g)(iii) which encompass office, research and development and light industrial type uses, as referred to on the reason for refusal.
7. Policy BSP11 of the Broadstairs and St Peter's Neighbourhood Plan 2023 (NP) aims to retain land or premises identified for or currently in employment use.
8. Pysons Road Industrial Estate is specifically identified by Thanet Local Plan Policy E01 for retention as an employment site, with the supporting text to the Policy clarifying that these sites should not be compromised by incompatible flexible uses that potentially lead to conflicts including noise nuisance or highway safety issues.
9. I have no doubt that the proposed use would generate employment opportunities, but these jobs would not be employment within the sectors allocated to the site through Policy E01. I note that within Policy E01 there is provision for flexible employment sites, identified as Dane Valley, Westwood and Eurokent where wider employment generating uses will be allowed providing they are compatible with neighbouring uses.
10. There is also a caveat to Policy E01 which states that alternative uses in the designated employment sites may be permitted where, amongst other things, it has been demonstrated that the site is no longer suitable or viable for employment purposes following an active and exhaustive marketing process for a minimum of 12 months. Similarly, Policy BSP11 of the NP presents some caveats where the change of use of employment uses will be supported, including where it can demonstrated the site is no longer capable of meeting employment needs, where the development will facilitate the relocation of an existing business to a more suitable site, where there are unacceptable environmental problems with a current site, or where relocation will make better use of existing or planned infrastructure.
11. No substantive evidence has been submitted in respect of any of the caveats to the above policies, and I cannot therefore conclude that the principle of the loss of the existing employment use on this designated employment site would be acceptable. The proposal would therefore be harmful to the availability of land allocated and safeguarded for employment uses as set out in Policy E01 of the Thanet Local Plan and Policy BSP11 of the NP.

Vitality and viability of town centres

12. The Framework's definition of main town centre uses includes leisure and more intensive sport and recreation uses. I have not been provided with substantive evidence to lead me to conclude that the proposed dance school would not be a main town centre use. Thanet Local Plan Policy E05 states that proposals for main town centre uses should be located within the designated town centres of Margate, Ramsgate, Broadstairs and Westwood. Where this is not possible due to size, format and layout, town centre uses should be located on the edge of town centres or on employment land designated for flexible use. If a town centre use is proposed outside these locations, it should be demonstrated that

there is no sequentially preferable location within the catchment of the proposed development.

13. The appellant sets out that a town centre location would not be suitable for their dance school due to concerns regarding traffic restrictions in town centres which could prevent students being dropped off immediately outside the premises or would prevent a brief stop to see the child into the class. I appreciate that this may be so for some locations and it may be the case that drop off arrangements would have to be modified to accommodate particular premises. A town centre location would not necessarily preclude the use of vehicles for dropping off students.
14. I acknowledge the appellant's concerns over the potential conflict of a dance school use with entertainment uses selling alcohol and consequent risk of anti-social behaviour affecting their students. Whilst community safety and fear of crime are considerations in planning decisions, there is no specific town centre site before me. Each planning decision must be made on its own merits, and I cannot reasonably conclude that this matter would be applicable to all town centre sites rendering them unsuitable for a dance school. I note the Council cites two examples of similar leisure or performing arts uses which operate, or have operated, from a town centre location.
15. I acknowledge the appellant has been searching for a suitable premises for a considerable time and that the appeal site meets their needs in terms of location relative to their current students, costs, and floorspace requirements. However, the requirements of Policy E05 are clear in terms of the hierarchy of locations preferred for town centre uses. Whilst I acknowledge that the appellant has provided some evidence in relation to available properties, this is very much a snapshot in time of a single day from a 9 year search and is not sufficient evidence to demonstrate that there have been no sites available in a town centre, edge of centre or on flexible employment land.
16. As it has not been demonstrated through a sequential test that there would be no suitable alternative sites in the locations specified in Policy E05, I conclude that the appeal proposal would harm the vitality and viability of Thanet's town centres due to its proposed out of centre location.

Highway safety

17. There is vehicular parking outside all units on Horner Close, along with manoeuvring space suitable for large vans and lorries given the nature of the uses present. There are some informal on-street parking opportunities across the industrial estate. The proposals show 3 parking spaces outside the unit allocated for staff and 1 drop off space intended for students. The Council indicates that there is no direct access to the industrial estate via public transport, so students would generally be dropped off and collected by vehicle.
18. The appellant's evidence states the proposed dance studio would operate between the hours of 1630 and 2100 Monday to Friday. The original planning application form also states there would be weekend operation between 0900 to 1600, though a subsequent letter to the Council advises the weekends would be Saturday mornings only. The appellant indicates that the expectation is for students to be dropped off and collected by vehicles using the allocated drop off space. Classes at 1630 would have around 6 vehicles dropping off and collecting.

19. I note the other units within Hornet Close do not routinely open after 1700 during the week, although several are open on Saturday mornings. Nevertheless, drop off time for the first class during the week or on Saturdays would be at a time that most of the units within this section of Hornet Close are operational, including Saturday mornings. I visited the site on a Tuesday afternoon and observed lorries delivering to the plumbers' merchants, forklift trucks transporting beer barrels between units 1 and 7 at opposite ends of the Close as well as vehicles dropping off or picking up items at the self-storage units. Whilst this activity is commensurate with an industrial estate, I consider that there is the potential for significant conflict with pedestrians, other vehicles and cars dropping off and picking up students from dance classes with 1 available drop off space.
20. Increased parking demand in areas of limited on-street supply may lead to additional congestion as drivers seek spaces, or park on street elsewhere on the estate or park illegally, which would be detrimental to highway safety. There is no evidence to suggest that such circumstances could be avoided by the appeal proposal.
21. The proposed development would be harmful to the safety and efficiency of the highway network due to the additional pressure on parking and potential conflict with other vehicles. It would therefore run contrary to Policy TP06 of the Thanet Local Plan, which aims to ensure development proposals have satisfactory parking provision taking into account matters such as the location, accessibility and the potential for public transport access. Whilst the Council have also referred to Policy QD02 in their reason for refusal, this policy sets out general design principles which are not directly related to the harm to highway safety I have identified.

Planning balance

22. I acknowledge that the appeal proposal would have economic benefits in the form of employment by the dance school. The dance school would provide a service for local children and young people and would also have the capacity to expand. However, the harm I have identified to the availability of industrial employment land, the potential impact upon the vitality and viability of Thanet's town centres and the harm to highway safety outweigh these benefits. Furthermore, it has not been conclusively demonstrated that the identified benefits could not be realised in locations that accord with the development plan's locational policies.

Other Matters

23. I note the appellant's point regarding the use of the adjacent unit by Gadds (Ramsgate Brewery) counter sales which also allows consumption on site with external tables. I have no details before me about the circumstances of this particular use. In any event, I have determined this appeal on its own merits.

Conclusion

24. I have found that the appeal proposal would harm the availability of land safeguarded for specific types of employment generating uses, it would harm the vitality and viability of the district's town centres and would be harmful to highway safety. As such it is contrary to the development plan read as a whole. The material considerations in this case do not indicate that the decision should

be taken otherwise than in accordance with the development plan. The appeal should therefore be dismissed.

L Francis

INSPECTOR