



Appeal Decision

Site visit made on 3 April 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024

Appeal Ref: APP/K0235/W/23/3332773

Lagos Bar and Restaurant, Unit 1B Windsor Road, Bedford MK42 9SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr B Anu Alemanji against the decision of Bedford Borough Council.
 - The application Ref is 23/00051/S73A.
 - The development proposed is the change of use from B2 (General Industrial) to Sui Generis (Bar and Restaurant).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I recognise that the development has already occurred however I have altered the description of development above to remove the word 'retrospective' as this, of itself, is not an act of development having regard to s55 of the Town and Country Planning Act 1990.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issues

4. The main issues are the effect of the development on:
 - a) the designated key employment site, particularly considering whether it would be ancillary or complementary to the existing activities of the employment area, and
 - b) the availability of parking provision and consequent effects on highway safety and free-flow of traffic.

Reasons

Key employment site

5. The appeal site comprises part of a brick built, flat roofed industrial building that is set towards the end of Windsor Road. This road is a cul-de-sac which is quite narrow for the type of traffic it serves. It has double-yellow lines to both sides from the appeal site to the junction with Mile Road, albeit that these were very poorly marked at the time of my site visit. The area is made up of a variety of commercial and industrial uses. These uses include builders and

timber merchants, tool hire, outdoor storage and motor vehicle repair and service garages. It is designated as a Key Employment Site under policy 70 of the Bedford Local Plan 2030 (adopted January 2020) (BLP).

6. Policy 70 of the BLP sets out that such sites contribute to the economic function of the Borough and will be protected. The development or redevelopment of land and premises within these Key Employment Sites for purposes other than business, general industrial and storage and distribution will only be supported where it can be demonstrated that, amongst other things, the development would be ancillary or complementary to the existing or proposed 'B class' activities and is proportionate in scale to the overall defined area to ensure that it would not detract from the primary employment purpose.
7. The use of the premises as a bar and restaurant is a *sui generis* use and does not fit within a 'B class' use under the BLP, nor is it closely similar to it. This also takes into account the September 2020 revisions to The Town and Country Planning (Use Classes) Order which 'moved' some Class B uses to Class E. These revisions post-date the adoption of the BLP. As such, the development cannot comply with policy 70 unless the proposed use would be ancillary or complementary to the remainder of the Key Employment Site and be proportionate in scale to the overall defined area.
8. In this regard, I have noted that the premises provides a restaurant function which could be complimentary to the remainder of the Key Employment Site. However, the hours of operation are from 2:30pm until late at night or across the weekend. These hours are unlikely to align with the operating hours of the remaining commercial uses in the area and could, at best, provide late lunches, evening meals or after work drinks. This, however, is sufficiently minimal in terms of any overlapping function that it could not be seen to be ancillary or complimentary.
9. The relatively small area of the site, by comparison to the remainder of the wider Key Employment Site is of note. The lack of other non-B Class uses in the vicinity also lends favour to the proposal as it would not detract from the Key Employment Site's primary employment purpose in a substantial way. Even so, it is insufficiently complimentary to warrant this.
10. I do recognise the employment generating nature of the development. Indeed, the employment of nine full time staff, three part time staff, plus eight weekend security staff is not insignificant. However, I have not been provided with any evidence to suggest that this would be greater or lesser than that which could be delivered through the use of the site within a Class B use that would fully comply with BLP policy 70.
11. Overall, on the weight of the evidence provided to me, I am unable to conclude that the development proposed would be ancillary or complementary to the existing 'B class' activities of the Key Employment Site. Despite the relatively small size of the site; the lack of complimentary activities leads me to conclude that it would detract from the area's primary purpose and it therefore conflicts with policy 70 of the BLP.

Parking provision

12. At present the site provides four parking spaces. If added to the cash-and-carry next door, which is within the appellant's control, and assuming cross

utilisation, this may be increased to a total of seven spaces. The Highway Authority consider that 19 spaces should be provided, as a minimum, when taking into account the sites' accessible location. This figure is not disputed between the parties.

13. I have had regard to the Parking Assessment which was submitted with the appeal and upon which the Council has had the opportunity to comment. This document indicates that on-street parking in lay-bys along Mile Road is available during evening and nighttime hours. These vehicle parking spaces could provide an additional 23 spaces. However, they remain fairly distant to the site and there is a disproportionate reliance on these off-street spaces by comparison to those provided on site.
14. Indeed, as a consequence and in addition to the late hours of operation and the nature of the use, some customers may well be inclined to park in restricted areas along Windsor Road. Given the nature of this cul-de-sac, a prevalence of commercial vehicles using it, that the use would, at times, conflict with commercial traffic and the lack of nearby off-street parking. As such, I am concerned about the free flow of traffic and safety of road users, including pedestrians, in this scenario. Even if all overflow parking were to be provided on-site or in the bays along Mile Road; those parked along Mile Road would still have to navigate their way along Windsor Road which, due to its multiple vehicle accesses, sporadic street lighting and prevailing uses, is not a particularly satisfactory solution.
15. I have considered the arrangements that exist with other local business owners and the ability to use parts of their premises for 'out-of-hours' parking. However, only very limited details of this arrangement have been provided to me. No comments or supporting evidence from these neighbours to confirm these arrangements have been provided. Whilst I can see the benefit of it, there remains no mechanism for me to secure it and I can therefore ascribe minimal weight to this suggestion.
16. BLP policy 31 requires that development should not have any significant adverse impact on the public highway. In the absence of a considered parking management plan or additional parking provision on the site, the development fails to comply with policy 31 of the BLP insofar as there is insufficient parking space available on site for the use which would be harmful to highway safety.

Other Matters

17. I have considered the location of the site and that no concern has been expressed by the Council or nearby residents in relation to late night noise and activity. However, this is not a matter in dispute and it is a neutral component in my assessment here.

Conclusion

18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given, the appeal should be dismissed.

Nick Bowden

INSPECTOR