



Appeal Decision

Site visit made on 17 April 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2024

Appeal Ref: APP/C3810/W/23/3328753

Unit 7 Durban Road Business Centre, Durban Road, Bognor Regis, West Sussex PO22 9FE

- 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 Krasimir Adamov of Best Bulgarian Shop Ltd against the decision of Arun District Council.
 - The application Ref is BR/114/23/PL.
 - The development proposed is the change of use from B2 (General Industrial) and B8 (Storage and Distribution) to Class E (Commercial, Business and Service).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council determined the application, a new version of the National Planning Policy Framework (the Framework) came into effect. However, as the Framework's policy content insofar as it relates to the main issues has not been significantly changed there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issue

3. The main issue is the effect of the proposed change of use on the supply of employment sites and premises, with regard to local planning policies.

Reasons

4. The appeal site is located within the Durban Road Business Centre (the business centre) and comprises a small unit. Based on the application documents, the unit is being used for storage purposes although at the time of my site visit, I was unable to verify this as the main entrance and roller shutter door were closed and locked.
5. Policy EMP DM1 of the Arun District Local Plan (the Local Plan), amongst other provisions, seeks to protect existing employment premises and sites where there remains a reasonable prospect of continued employment use. The main purpose of this policy is to maintain an appropriate supply of sites and premises to meet the needs of the local economy, including balancing housing and employment provision more broadly. This strategy is consistent with the approach to building a strong, competitive economy set out in Chapter 6 of the Framework.

6. Whilst it doesn't preclude a change of use, Policy EMP DMI does require a clear demonstration that the site is no longer required and unlikely to be reused or redeveloped for other employment purposes. This includes marketing details, a viability appraisal and the suitability of the site for the proposed use referencing the matters listed in the policy's supporting text.
7. Although copies of advertisements have been provided showing the marketing on the appeal site, these are not dated. No substantive details have been provided setting out how long the unit has been marketed and the level of interest it attracted, even if no offers have been forthcoming. The screenshot showing the liquidation status relating to a previous tenant does not provide sufficient evidence to confirm how long the unit has been vacant. Therefore, based on the evidence before me, I cannot conclude with certainty that the appeal site has been marketed for sufficient time and at a realistic value to demonstrate it is no longer required for a Class B2 (General Industrial) and Class B8 (Storage and Distribution) employment use as set out in the UCO¹.
8. In the absence of a viability appraisal, it is also not clear if alternative employment uses within Class B2 and B8 have been fully explored. These could include the refurbishment or sub-division of the unit. Notwithstanding the assertion that the neighbouring unit (Unit 6) is vacant, I observed little evidence that other industrial and commercial premises in the surrounding business centre were unoccupied. Without an assessment of the site's suitability for its proposed retail use, the impact it may have on other employment uses nearby remains uncertain, even if the proposed shop would employ more people than a previous tenant.
9. The availability and number of car parking spaces close to the appeal site and the lack of dwellings nearby do not weigh for or against the proposed change of use. As a private matter, the lease amount currently paid by the appellant is not a determinative factor in my decision. I have no substantive evidence before me confirming that Unit 8 has received consent for a change of use.
10. Therefore, I conclude that the proposed change of use would cause harm to the supply of employment sites and premises, contrary to Policy EMP DM1 of the Local Plan which seeks to protect such uses by maintaining a balance of housing and employment sites in the area.
11. Whilst the use of the appeal site as a cash and carry outlet may be permissible under Class B8 and involves the sale of goods, this is on a wholesale basis to businesses and not the public. Therefore, in planning terms, it is not a comparable use to a retail outlet which falls under Class E.

Conclusion

12. The proposed change of use conflicts with the development plan as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and development plan conflict. For the reasons identified above, the appeal is dismissed.

Juliet Rogers

INSPECTOR

¹ As set out in the Town and Country Planning (Use Classes) Order 1987 as amended (the UCO)