



Appeal Decision

Site visit made on 18 June 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th July 2024

Appeal Ref: APP/P4605/W/24/3338674

32 Summer Lane, Aston, Birmingham B19 3TN

- 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 Tesfaldet Habte against the decision of Birmingham City Council.
 - The application Ref is 2023/08350/PA.
 - The development proposed is described as 'Change of use – Proposed conversion of industrial unit to an off license shop. Premises license has been obtained.'
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

1. The main issue is whether the appeal site is an appropriate location for an off-license shop (Use Class E), having regard to the provisions of the development plan.

Reasons

2. The appeal site lies within a Core Employment Area (CEA). The area surrounding the site is primarily industrial and commercial in character, with some residential properties in close proximity. The site is currently a vacant industrial unit in Use Class B2 and permission is being sought to change the Use class of the unit to Class E to become an off-licence shop.
3. In order to ensure that the city has a sufficient supply of land for employment uses, Birmingham City Council requires CEA's to be retained in employment use. This is reflected in Policy TP19 of the Birmingham Development Plan (2017) (LP) which sets out that CEA's will be retained in employment use and will be the focus of economic regeneration activities. The policy also defines uses which are to be retained. The proposed use does not fall within any of the categories set out in Policy TP19.

4. Policy TP19 goes on to state that applications for uses outside the categories listed will not be supported unless an exceptional justification exists. The Loss of industrial land to alternative uses supplementary planning document (2006) (SPD) sets out the information required to be submitted with a planning application for loss of industrial land. This includes the submission of information related to active marketing. The appellant has not submitted any evidence in respect of marketing or similar information. Therefore, I am unable to conclude that there is no demand for the building as an industrial unit or other employment use.
5. The SPD recognises that there may be occasions where it can be demonstrated that there are good planning grounds to depart from the general presumption against the loss of industrial land. In such circumstances, proposals would need to demonstrate that alternative sites are not available which do not involve the loss of industrial land. However, no evidence has been submitted by the appellant in this respect. Accordingly, I do not consider that an exceptional justification has been demonstrated to warrant deviation from Policy TP19.
6. The appeal site is within the Gun Quarter area of the city centre. Policy GA1.3 of the LP seeks to maintain the area's important employment role and industrial activity, confining complementary uses to around the canal. The appeal site is not located near the canal and the loss of its industrial use would also result in the development being contrary to the objectives of Policy GA1.3.
7. For the reasons set out above I conclude that the appeal site is not an appropriate location for an off-license shop (Use Class E) because it would undermine the long term employment role and economic regeneration activities within the CEA and Gun Quarter. Therefore, the development would be contrary to Policies TP19 and GA1.3 of the LP. Furthermore, the development would not conform to the SPD and would not be in accordance with Paragraph 87 of the National Planning Policy Framework which seeks to recognise the specific locational requirements of different sectors.

Other Matters

8. I acknowledge that statutory consultees including regulatory services, the fire authority and the police, subject to conditions, raised no objections to the proposal. However, I am required to assess the proposal on its planning merits and the absence of objections does not alter my findings with regards to the conflict with the policies identified.
9. Whilst initial discussions with the Council may have indicated they were in favour of the proposal; the Officer Report recommends refusal with clear reasoning for doing so. My decision has been based on the planning merits of the case and the development plan policies of which I have found the proposal to be in conflict with.

Planning Balance and Conclusion

10. I note that the site is adjacent to a bakery and a garage, however the Council do not have any planning history for a change of use to the bakery and the Council state that the garage came into use before the land was designated as a CEA. The close proximity of these uses to the appeal site therefore carries limited weight in favour of the proposal.

11. The appellant sets out that the appeal scheme would accord with the three strands of sustainable development set out in the Framework but does not fully expand on this. Nonetheless, there would be economic and environmental benefits as a result of bringing back into use a vacant unit and the site is in an accessible location, close to a range of amenities. These benefits attract moderate weight in favour of the appeal. The appellant refers to the use generating some jobs but the precise number has not been set out. Owing to the size of the scheme this is likely to be limited in numbers. Consequently, this attracts limited weight. There would also be a modest social benefit for local residents and local employees who may use the off-licence.
12. I have identified harm in respect of the long term employment role and economic regeneration activities within the CEA and Gun Quarter, to which I attach substantial weight. The benefits which I have identified neither individually nor cumulatively outweigh this harm.
13. 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. Therefore, the appeal should be dismissed.

T Bennett

INSPECTOR