



Appeal Decision

Site visit made on 24 September 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2024

Appeal Ref: APP/P4605/W/24/3344132

183 Unit A2, Park Lane, Tyburn, Birmingham B35 6AN

- 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 Shehzad Ahmed of Home James Chauffeurs Limited against the decision of Birmingham City Council.
 - The application Ref is 2024/00836/PA.
 - The development proposed is first floor offices change of use from a Class Use of B1 (b&c), B1 and B8 to Sui Generis office use for a private hire vehicle business offices.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the Core Employment Area (CEA).

Reasons

3. The appeal building is a large industrial unit that is located in the Castle Vale Enterprise Park Core Employment Area (the CEA). The planning history for the site identifies that the existing permission includes Use Class¹ B1, B2 and B8, and the scheme would change the use of part of the building to a Sui Generis office use in association with a private hire vehicle business.
4. Policy TP19 of the Birmingham Development Plan 2017 (BDP) states that the purpose of the CEA is to retain employment uses and to be the focus of employment regeneration and additional development opportunities. The policy defines employment use as: research and development; light industrial; general industrial; warehousing and distribution; and other appropriate uses such as waste management, builders' merchants and machine/tool hire centres. The appeal proposal would not fall within any of these categories.
5. Policy TP19 states that applications for uses outside of these categories will not be supported unless exceptional justification exists. Paragraph 5.9 of the Loss of Industrial Land to Alternative Uses Supplementary Planning Document (SPD) details circumstances where exceptions may exist. Whilst this predates the BDP and refers to all industrial land, the SPD recognises that there will 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.

¹ The Town and Country Planning (Use Classes) Order 1987

6. Given that the unit is within an enterprise park surrounded by industrial uses the existing use of the building is not a non-conforming use and is consistent with other uses nearby.
7. The appellant notes that there is an abundance of industrial units to rent or for sale nearby and identifies that a large industrial development is being built nearby at Peddimore. However, this does not demonstrate that the appeal unit is no longer attractive for the employment uses defined in Policy TP19. Whilst the unit was recently purchased, limited marketing information was submitted to identify whether interest was registered for the unit to be used in a conforming use or that it was marketed at a comparative rate with other units nearby.
8. The appellant has identified the occupiers of the surrounding units, but I have no planning history for these units to indicate that the Council has granted planning permission for them to be used for alternative uses. It is also not evident from the information I have that they are not still in employment use. It is possible that those operators are using the offices as part of the wider employment use, unlike the scheme before me which seeks to operate separately from the rest of the unit. The use of part of the site in Sui Generis use may not necessarily sterilise the rest of the unit, but it has not been robustly demonstrated that there is a demand for smaller units without office space or that there is no interest in the unit in its current guise.
9. Furthermore, no sequential test has been submitted to identify that alternative sites are not available which do not involve the loss of industrial land. Nor has a substantiated case been put forward that the high redevelopment costs would make industrial redevelopment commercially unviable.
10. Whilst the proposal would continue to provide an employment generating use, the type of employment provided would not maintain the CEAs important employment role. Overall, I do not consider that exceptional justification has been demonstrated to justify the change of use. The change of use would harm the long-term employment and economic regeneration activities in the surrounding established industrial employment uses by virtue of the site's location within the CEA. Therefore, the proposed development would conflict with BDP Policies TP19 and TP20 for the reasons given above as well as identifying that employment land and premises will be protected where they contribute to the portfolio of employment land. It would also conflict with the SPD insofar as there are no good planning grounds to depart from the general presumption against the loss of industrial land. Furthermore, it would not accord with the National Planning Policy Framework, which seeks to build a strong, competitive economy.

Conclusion

11. For the reasons given above, the proposed development 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, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR