



Appeal Decision

Site visit made on 27 November 2024

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Appeal Ref: APP/X1545/W/24/3345566

Unit F, Riverside Industrial Estate, Mill Lane, Maldon, CM9 4LD

- 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 Executive Pension Scheme against the decision of Maldon District Council.
 - The application Ref is COU/MAL/24/00075.
 - The development proposed is change of use of existing Unit F from Class B8 warehouse into Use Class F2(d) - indoor overground children's swimming pool facility.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of existing Unit F from Class B8 warehouse into Use Class F2(d) - indoor overground children's swimming pool facility at Unit F, Riverside Industrial Estate, Mill Lane, Maldon, CM9 4LD in accordance with the terms of the application, Ref COU/MAL/24/00075, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos 2315/000, 2315/200, 2315/201, 2315/202 and 2315/203.
 - 3) No external plant or machinery shall be installed and brought into use until details of that equipment and any associated noise reduction measures have been submitted to and approved in writing by the local planning authority. Any approved noise reduction measures shall be implemented prior to the first use of the approved plant or machinery and shall thereafter be retained.

Main Issue

2. The effect of the proposal on the supply of employment premises and the local economy having regard to relevant local and national policies.

Reasons

3. The existing building is empty and has a floorspace of 129 sq m. It is located within a small industrial estate comprising a mix of commercial uses, including the Royal Mail delivery office, manufacturing and self-storage units. The site is within The Causeway Employment Area as defined by the Approved Local Development Plan of 2017 and also within a Regeneration Area.

4. Policy E1 indicates that designated employment areas should be retained and protected for uses within Class B1, B2 or B8 of the Use Classes Order unless there is no reasonable prospect for the site to be used for those purposes. Proposals which cause the loss of any existing employment uses will only be considered in certain specified circumstances. According to Policy S5 the aim of the renewal of The Causeway is to improve the supply of high quality floorspace within Use Class B and increase employment.
5. The proposal is to use the building for swimming tuition for children. As part of the conversion an above ground pool measuring 9m by 4.5m would be installed. Changing rooms and other ancillary facilities would be created internally. The proposed use falls into Class F2(d) (local community).
6. As such, it would at odds with the broad thrust of relevant development plan policies which are primarily aimed at encouraging uses within Class B. The proposal would be beneficial to the local community in providing a useful facility, especially given the strong association of Maldon with water. However, there is insufficient evidence to show that there would be a *greater* benefit [my emphasis] and so meet the exception in Policy E1. In particular, there is nothing to show that there is unmet demand for swimming lessons or that provision for children within the town is lacking.
7. Therefore, the proposal would not accord with Policies E1 or S5. However, material considerations outweigh this conflict for several reasons.
8. Firstly, the Local Development Plan is now somewhat aged. Whilst existing policies should not be considered out-of-date simply because they were adopted prior to the current National Planning Policy Framework, plan preparation started more than a decade ago. The latest key evidence base document was the Employment Land Review Update of 2015.
9. Since that time, there have been changes to the Use Classes Order, including the creation of Use Class E (commercial, business and service) which encompasses uses within Class B1. In addition, general economic conditions are different than they were then due to Brexit and the effects of the pandemic. In the light of this, the reliance on Class B uses to create employment may no longer be the best approach.
10. Furthermore, there is no indication as to whether the policies have borne fruit and whether the new employment space allocated has come forward. There is also no information about the supply of employment premises across the District and no detail about any tangible harmful impacts that would arise from accepting a use outside of Class B. The Council has not justified the claim that there would be a detrimental impact on the local economy.
11. National policy indicates that significant weight should be placed on the need to support economic growth taking into account local business needs. Furthermore, policies should be flexible enough to accommodate needs not anticipated and to enable a rapid response to changing economic circumstances. Therefore, having regard to the provisions of the Framework, the conflict with the development plan policies is a matter of limited adverse weight. This is because of the changes that have occurred since the policies were devised and the absence of evidence about the overall picture for employment premises.

12. Coupled with this, the building is very small and so its scope to create jobs in Class B or Class E is likely to be limited. It has been vacant for over a year and was last used for low-key storage purposes in association with a nearby joinery company. By contrast, it is not disputed that the proposed use would employ 13 people, although mainly on a part-time basis. Nevertheless, this is a significant number and so the proposal would be consistent with the objective in the Local Development Plan of generating employment.
13. Finally, whilst the benefits to the community are qualified, the use would align with the aim of the Framework to enable and support healthy lifestyles and to provide access to opportunities for physical activity. This consideration also supports the proposal.

Conditions

14. The plans should be specified in the interests of certainty. The building is close to residential properties at Bridge Court and so details of any external plant or machinery should be provided to ensure that any associated noise is adequately mitigated. There are no permitted development rights for uses with Class F.2(d). However, the existing parking spaces are already hard surfaced and so a condition requiring further details of them is unnecessary.

Conclusion

15. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given, the proposal is acceptable and the appeal should succeed.

David Smith

INSPECTOR