
Appeal Decision

Site visit made on 18 September 2018

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2018

Appeal Ref: APP/Z4310/W/18/3200402

16 Weaver Industrial Estate, Blackburne Street, Liverpool L19 8JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Leonard against the decision of Liverpool City Council.
 - The application Ref 17F/3003, dated 20 October 2017, was refused by notice dated 27 February 2018.
 - The development proposed is change of use of the building to indoor children's play centre (D2 use class assembly and leisure).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice includes five reasons for refusal, one of which relates to insufficient information regarding localised flooding and surface water drainage. However it appears from the evidence that additional drainage information was submitted to the Council following the refusal of the application and prior to the submission of the appeal. I have been provided with a copy of correspondence from the Council's drainage engineer confirming that he no longer objects to the proposal subject to the imposition of the recommended conditions. Consequently as it appears that the appellant has overcome the Council's concerns in respect of drainage, in reaching my decision I have not considered this matter.
3. On 24 July 2018 the Government published its revised National Planning Policy Framework (the Framework). The revised Framework is applicable to planning decisions from the date of publication and sets out the Government's planning policies for England. It is therefore a material consideration in the determination of this appeal. The main parties have been consulted on the revised Framework and in reaching my decision I have had regard to it where relevant.

Main Issues

4. The main issues are:
 - whether the proposed use is acceptable in principle and the effect of the proposal on the existing industrial estate;
 - the effect of the proposal on pedestrian and cyclist safety;

- whether the site is in an accessible location.

Reasons

Principle

5. The appeal site comprises a vacant commercial building, surrounding land and access road located on the edge of Weaver Industrial Estate, an estate comprising a variety of industrial buildings and uses. I understand from the evidence that the building was last used for storage and that it has been vacant for some time.
6. The site is designated as a Primarily Industrial Area (PIA) in the Liverpool Unitary Development Plan adopted November 2002 (UDP). Policy E1 of the UDP relates to PIAs and states that uses other than those within use classes B1/B2/B8 will only be permitted where, amongst other things, the proposal would act as a catalyst to the comprehensive redevelopment of the site or area primarily for industrial/business use and would not prejudice the long term development of the area primarily for these uses. It appears that the appeal site is proposed to remain as an employment area in the emerging Liverpool Local Plan (ELP). Policy EC2 of the ELP states that such areas will primarily be protected for industrial and business uses (Use Classes B1/2/8) and proposals for other purposes should clearly demonstrate compliance with the stated criteria.
7. My attention has been drawn by the Council to the findings of The Employment Land Study 2017 (ELS) which concludes that the supply of employment land to meet the needs of the city is tight and that occupancy rates are not low within the Weaver Industrial Estate.
8. The appellant has questioned the weight to be given to UDP Policy E1, Policy EC2 of the ELP and to the ELS in light of the consistency of E1 to policies in the previous Framework and in light of the stage of preparation of the ELP. Whilst there is no reference to leisure developments as economic development within Policy E1, I do not consider that this or the age of the UDP means that the policy is not consistent with the Framework which seeks to build a strong, competitive economy but also recognises the specific locational requirements of different sectors (paragraph 82). Accordingly in reaching my decision I have had regard to UDP Policy E1.
9. Paragraph 120 of the Framework states that policies and decisions should be informed by regular reviews of both the land allocated for development in plans and of land availability. Though I understand that the ELS has been prepared in connection with the ELP, it nevertheless appears to be such a review and no contradictory evidence has been submitted by the appellant to undermine the findings of the ELS that employment land supply is tight and that occupancy rates within Weaver Industrial Estate are not low. Given that the ELP has yet to be adopted, I agree with the appellant that the policies within it carry limited weight.
10. Whilst the building has been vacant for some time and whilst the appeal site is situated on the edge of the industrial estate within an enclosed site, the appellant nevertheless acknowledges that as the proposal would not act as a catalyst for redevelopment for industrial/business use as defined by Policy E1 it is contrary to that policy. The proposal would bring the building back into use

and would bring with it a number of associated improvements including an estimated 25 new jobs. However it would result in the loss of a building from the permitted B1, B2, B8 use classes in an area where policy seeks to protect such uses and where the evidence suggests vacancy rates are low and where there is not an excessive supply of employment land. I note that the size of the building is reasonably large and that the appellant does not consider that subdivision is a viable option apparently having experienced problems with such subdivision elsewhere within the estate. Whilst this may be the case, there is no substantive evidence to demonstrate that subdivision is not a viable option or that such subdivision would not result in more interest in the appeal site. Though the proposal would not render the appeal site incapable of being used for a business/industrial use in the future, this would seem less likely given the amount of investment likely to be required to facilitate the proposed use.

11. My attention has been drawn by the appellant to a number of other sites where similar uses to that proposed have been permitted by the Council on PIAs and sites for industrial/business development. Whilst I have had regard to these and whilst I note that they appear to relate to sites within industrial/commercial areas where policies E1 and EC2 apply, I am not fully aware of the details in relation to these cases and in any event, I must determine the proposal before me on its own merits.
12. The proposal would result in the introduction of a leisure use into a relatively large building in a designated industrial area. Proportionally the change of use would account for a small percentage of floorspace within the overall estate and I do not consider that the proposed use on the site would be particularly sensitive in relation to surrounding uses given the nature of the use and the sites location on the edge of the industrial estate. However it would nevertheless result in the loss of an industrial/business use and would be contrary to local and national planning policies which seek to direct development to appropriate areas and to protect existing industrial and business uses unless certain circumstances apply, none of which apply in this case.
13. Having regard to the submitted evidence, I consider that allowing the proposed use would undermine the Council's policies which seek to protect PIAs. Whilst I note that the appellant did undertake a sequential assessment and that this showed that there were no suitable sites available in or adjacent to the nearby retail centres, and whilst such uses have been permitted in other PIAs within the city, for the reasons stated above, this does not justify the granting of planning permission for the proposed use in this particular location.
14. Taking the above matters into consideration, I conclude that the proposal is unacceptable in principle and it would be likely to prejudice the long term development of the area and have a harmful effect on the function of the existing industrial estate. It is therefore contrary to UDP Policy E1 and to relevant paragraphs of the Framework which seek to protect sites allocated for particular uses including industrial uses.

Pedestrian cyclist safety

15. Pedestrian and vehicular access to the play centre would be via Brunswick Street. A number of neighbouring units also adjoin Brunswick Street and have large access doors as well as pedestrian doors fronting onto it. A

- pedestrian footway is proposed to run near to the neighbouring units and access doors. The nature of the previous and proposed uses is such that the proposal would be likely to increase pedestrian activity along Brunswick Street.
16. The position of the large access doors to neighbouring units relative to the appeal site and proposed footway means that were they to be used when the proposed use is operating, then this would be likely to be harmful to pedestrian safety with extremely restricted inter-visibility between pedestrians and emerging vehicles. The appellant states that the doors could be permanently shut or that a restriction could be placed on their use to ensure that they are not used when the proposed use is taking place. However whilst it is stated that the adjacent units are owned and controlled by the owner of the wider industrial estate, they are located outside of the appeal site and as such could not be subject to the imposition of planning conditions controlling the use of the access doors.
 17. In addition I do not consider that other restrictions including the installation of a barrier at the entrance to the appeal site would adequately resolve the issue of the potential use of the access doors and the likely impact of this on cyclists and pedestrians as any use of the doors would be likely to have an adverse impact. I do not therefore consider that this matter could be adequately overcome by the imposition of suitably worded planning conditions or that the harm would be mitigated by the provision of signage and lighting.
 18. Taking the above matters into consideration, I conclude that the proposal would be likely to have a significant adverse effect on pedestrian and cyclist safety. It would fail to provide a safe access route to the premises for pedestrians and cyclists and would therefore be contrary to policies T7, T8 and T9 of the UDP. These policies seek, amongst other things, to encourage walking and cycling as a mode of transport and to make the pedestrian and cyclist environment safer.

Accessibility

19. Both the main parties appear to agree that the proposed leisure use is defined as a main town centre use within the glossary of the Framework and the appellant undertook a sequential test. The Council has expressed concerns about the accessibility of the site by public transport and the likely reliance of future customers on unsustainable modes of transport with particular reference to the Framework and UDP Policy GEN6.
20. The appellant has submitted evidence to demonstrate that the appeal site is near to potential future customers in existing and proposed housing areas; near to cycle lanes and that the proposal meets the desirable walking distances to public transport and district facilities required by the Chartered Institute of Highways and Transportation. This evidence has not been disputed by the Council, though the Council refer instead to Council guidance in its Supplementary Planning Document 7 which states that the nearest bus stop should be no more than 200 metres away. I have not been provided with copies of either of these documents. Nevertheless having regard to the appellant's evidence in relation to the location of the site relative to nearby housing areas and to its position in relation to bus stops and cycle lanes, I am satisfied that future customers would not be unduly reliant on unsustainable modes of transport, despite the proposal failing to comply with the Council's guidelines.

21. Taking the above matters into consideration, I conclude that the proposal is in a reasonably accessible location. It therefore accords with relevant paragraphs of the Framework and with UDP Policy GEN6 which seek, amongst other things, proposals for leisure development to be in accessible locations and to reduce the reliance on the private car.

Other Matters

22. In reaching my decision I have had regard to the fact that the proposal would help to promote health and social well-being and provide facilities catering for children with special needs. In addition there would be some environmental improvements including landscaping and lighting with the latter also helping to improve safety in the area. It is stated that the proposal would also create 25 jobs. However these benefits would not outweigh the harm that I have identified and I do not consider the proposal to be sustainable economic development.

Conclusion

23. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR