

Appendix A

Appeal by Mr P Roberts

Site at Unit 26/27 Storforth Lane Trading Estate, Chesterfield.

CHE/17/00077/COU

2/3559

1. Planning permission was refused on 3rd April 2017 for change of use from light industrial to gymnasium (D2) at Former Unit 26, Storforth Lane Trading Estate, Circular Road, Hasland.
2. The reasons for refusal were:
 - a. The development does not support the vitality of existing centres, and fails to demonstrate that it meets the sequential test for main town centre uses and demonstrates no wider regeneration or sustainability benefits of significant weight. This proposal would constitute a loss of a unit for B1, B2, and B8 uses, and the Council has evidence of enquiries by business falling within these uses for the type, size and location of this unit, and there is evidence that the supply of such premises is currently limited in the Borough. It is considered that the vacancy period and level of marketing for the property was inadequate to demonstrate that an appropriate industrial could not be found. As such, this application is contrary to policies CS1, CS2, CS13, CS15 of the Core Strategy, saved 2006 Local Plan policy EMP7, and paragraphs 22 and 24 of the NPPF.
 - b. The property has no allocated parking provision, and parking standards indicate that a D2 use should have one parking space per 25 square metres. This lack of parking is likely to lead to inappropriate parking and congestion to the detriment of highway safety. Policy CS20 of the Core Strategy states that development should not result in an adverse impact on highway safety, and as such this application is considered to be contrary to this policy.
3. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
4. The main issues in this case were:

- The effect of the proposed change of use on the vitality of the town centre and the availability of employment floor space in the Borough.
- The effect of the proposed change of use on highway safety with particular regard to car parking provision.

Vitality of town centre and employment floor space

5. The appeal property comprises the end industrial unit of a block of four similar units located on a large employment estate that contains units of various sizes sited predominantly along circular internal access roads. The estate was developed in the 1950's. Few units have dedicated parking areas with the consequence that vehicles tend to park in the front of units and along the access roads.
6. The Council's approach to vitality of centres and the location of health related uses is set out in Policy CS15 of the Chesterfield Local Plan: Core Strategy 2011–2031 (2013) (CLPCS). This policy, amongst other things, encourages health related uses to be located in defined centres. The Storforth Lane Trading Estate is an allocated employment site and Policy CS13 of the CLPCS does permit other business and industrial uses not falling within the B1, B2, B8 Use Classes to be located on employment sites subject to certain circumstances. These circumstances are the locational criteria set out in Policy CS2 of the CLPCS, which requires consideration of the need to serve a location catchment or make functional links to existing uses, the suitability of the use for the location and the employment generation of the proposed use when compared to the existing or previous use.
7. Saved Policy EMP7 of the Replacement Chesterfield Borough Local Plan (2006) (RCBLP) also allows for uses outside of B1, B2 and B8 on existing business and industrial areas subject to the consideration of the employment generating potential of the alternative use. In addition this policy also states that major commercial leisure uses will not be allowed unless ancillary to the main industrial or business activities and will not lead to a qualitative or quantitative deficiency in employment land or would inhibit existing or future business activity.

8. In order to consider the availability of alternative premises within centres in the Borough the appellant has provided a Sequential Assessment. This focused on premises having between 1500sq ft and 5000sq ft of floor space, as the current unit has approximately 3000sq ft of floor space, and with rental levels above £20,000 per annum being discounted due to affordability as the appellant indicates that the current gymnasium provides a turnover of less than £40,000 per annum. Given the turnover of the business and the size of the current premises, the inspector considered that floor space and rental thresholds adopted in the Sequential Assessment to be appropriate in this case.
9. The Sequential Assessment and a further submitted supplementary assessment demonstrated that there are no suitable sequentially preferable premises available within centres in the Borough. Although the Council disputed the findings of the Sequential Assessment and indicate that there are other premises within the Chesterfield Sites and Premises Guide that could potentially be used the inspector had no evidence to indicate where these may be or how they would be suitable. The appellant's evidence suggests that these may relate to one property that had been discounted due to its size and another discounted as it would involve the sub-division of a unit. The Council also referred to a unit at the Lockoford Trading Park as being suitable although this was discounted in the Sequential Assessment on the grounds of rental cost and the suitability of the unit for B1, B2 and B8 uses given that it is a more modern unit than the one which is the subject of this appeal. The inspector considered that the appellant's consideration of these factors in the Sequential Assessment to be unreasonable.
10. In the absence of any other conclusive evidence to the contrary, the inspector considered that the Sequential Assessment demonstrates that there are no suitable sequentially preferable premises currently available within centres in the Borough.
11. The Council indicated that there is a high demand within the Borough for units of between 500 sq ft and 3000 sq ft and that a 3 month void period was an insufficient length of time in which to conclude that there were no other appropriate

businesses that could have occupied the building. The appellant indicates that in 2014, when the letting of the unit to the appellant was agreed, a total of 11 enquiries were received in relation to units on the Storforth Lane Trading Estate. Of these, seven required a unit of less than 1000 sq ft, two were car repair businesses that relocated elsewhere and one required a unit of 5000 sq ft with the only other enquiry being the appellant.

12. Although the inspector had no reason to dispute that there is a high demand for units between 500 sq ft and 3000 sq ft within the Borough, he agreed with the appellant that there is no evidence of any locational or other factors that may suggest that such demand related to the Storforth Lane Trading Estate. As the estate as a whole is included within the Council's Sites and Premises Guide, he also agreed that it is effectively subject to continual marketing.
13. The inspector had no other conclusive evidence to suggest that there is a specific demand for units of this size on the estate at the current moment in time. He observed at his site visit that there were a number of vacant units within the estate of similar size to the appeal property. Whilst he accepted that the locational demand for units could change in the future, he had no available conclusive evidence in this appeal to suggest that there is a defined demand for units of this size on the estate.
14. The inspector took into account the fact that the previous use of the unit employed one person as a B8 car storage use and that the gymnasium currently employs 3 persons. He also gave moderate weight to the fact that the use had operated for over three years and provides a facility for employees on the estate and the local community. He agreed that there is some synergy between the proposed use and the existing uses by providing social and economic benefits of health related lifestyle opportunity close to places of employment. Taking the above factors into account, he found that there is insufficient evidence to suggest that the Sequential Assessment is fundamentally flawed or that there is a current demonstrable demand for units of this size and in this location. The proposed use generates more employment than the previous and it does not inhibit existing or future business activity. For

these reasons, he found that the proposed change of use would not have a negative impact on the vitality of the town centre or have a detrimental effect on the availability of employment floor space in the Borough. However, this is on the basis of the available evidence at the current moment in time and he recognised that these circumstances are subject to economic change and that the Council's preferred approach to the location of such uses is in town centres and thereby not permanently occupying employment sites for which there may be a future demand.

15. Consequently, a 3 year temporary permission, as suggested by the appellant, would be reasonable in this case to enable future consideration of demand and thereby avoiding the permanent use of the unit for purposes other than uses falling within the B1, B2 and B8 Use Classes. As such, on the basis of a temporary planning permission only, there would be no substantial conflict with Policies CS1, CS2, CS13 and CS15 of the CLPCS or Saved Policy EMP7 of the RCBLP.

Highway safety

16. Although the Council suggested that D2 uses should provide one parking space per 25sq m, it is clear that such dedicated space could not be accommodated in the proximity of the unit. Due to its configuration, the estate as a whole does not provide any substantial dedicated parking to serve the units. Instead parking occurs on the internal roads and outside of the units. The inspector observed at his site visit that the estate is able to contain the required parking demand without any on-street parking occurring on the public highway in the vicinity or compromising any visibility at internal road junctions within the estate or at the junction with Storforth Lane.
17. Given that some members of the gymnasium are from persons employed on the estate and the close proximity of the unit to the local community, thereby providing an opportunity to walk or cycle, the inspector considered that the demand for car parking is likely to be of a level that could not be accommodated within the confines of the estate. Moreover, the higher demand for the use of the gymnasium is likely to be outside of the normal working hours of many of the businesses on the estate and therefore at a time when car parking availability is more plentiful.

18. He noted that the Council's Highway Engineers raised no objections to the proposal on highway or pedestrian safety grounds. Although there are no dedicated footpaths on the estate the internal roads are sufficiently wide to avoid pedestrian and vehicular conflict. In addition, owing to the configuration of the estate, vehicular speeds appear to be low. Taking these factors into account, the proposal would not have a demonstrable detrimental effect on highway or pedestrian safety. As such, there would be no conflict with Policy CS20 of the CLPCS. This policy, amongst other things, requires that development should maximise the use of walking, cycling and the use of public transport through parking provision and prioritise cycle and pedestrian access.

Conditions

19. The inspector considered that a condition is necessary to limit the duration of change of use to a temporary period of 3 years only for the date of this decision. I consider it necessary to impose a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
- 1) The use hereby permitted shall be for a limited period being the period of 3 years only from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Existing Floor Plan.