



Appeal Decision

Site visit made on 24 January 2008

**by Stephen Amos MA(Cantab) MCD
MRTPI**

**an Inspector appointed by the Secretary of State
for Communities and Local Government**

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

**Decision date:
14 February 2008**

Appeal Ref: APP/U1105/A/07/2056318

**Unit 5, Gloucester Crescent, Heathpark Industrial Estate, Honiton, Devon
EX14 1DB**

- 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 Mrs April Edwards against the decision of East Devon District Council.
- The application Ref 07/1672/COU, dated 11/06/07, was refused by notice dated 02/10/07.
- The development proposed is change of use to soft play based family entertainment centre (D2).

Decision

1. I allow the appeal, and grant planning permission for change of use to soft play based family entertainment centre (D2) at Unit 5, Gloucester Crescent, Heathpark Industrial Estate, Honiton, Devon EX14 1DB, in accordance with the terms of the application, Ref 07/1672/COU, dated 11/06/07, and the plans submitted with it, 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 premises shall be used as a soft play based entertainment centre and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
 - 3) The use hereby permitted shall not be commenced until the 23 car parking spaces shown on the approved 1:500 scale Block Plan (rev a) have been provided and marked out.

Main issue

2. This is the effect on business and employment opportunities in the area.

Reasons

3. The appeal relates to a vacant purpose built business/storage and distribution unit (Classes B1/B8). It lies on an industrial estate close to the A30 trunk road, and is towards the western edge of Honiton. The site is identified as an existing employment area in the East Devon Local Plan (LP).

4. LP policy E3 restricts the change of use of current employment premises where it would harm business and employment opportunities in the area. The exceptions include where options for the retention of the premises for employment uses have been fully explored without success, and there is a clear demonstration of surplus supply of employment land in the locality.
5. The appeal premises have been vacant for over a year, and are said to have been marketed since about September 2006. The available evidence about that marketing is limited. For example, I have not been provided with any sale or letting particulars, or with details of the form and dates of any advertising, or with any information about the realism of the price or rent sought for the unit. I have noted that while 2 expressions of interest reached the stage of contracts being issued neither was completed, and that one of those interests was for investment rather than occupation. I have also noted the professional opinion of the marketing agent that the unit is too large for current demand. However, given the lack of some information as detailed above, I am not convinced on the available evidence that in the terms of LP policy E3 all options for retention of the premises in the permitted uses have been fully explored without success. As one example, there is nothing to show that the subdivision of the premises to create units in the size range which is in demand has been explored. While the appellant states that this would not be viable, there is no evidence of substance to support that contention.
6. Nevertheless, it is also necessary to consider the objectives which underlie LP policy E3 in terms of the encouragement of business activity and job creation. The use proposed in this appeal is a business. Moreover, although the use does not fall within Part B of the Town and Country Planning (Use Classes) Order 1987, as amended, it would provide employment. The appellant's evidence indicates that 13 full and part time jobs would be created, which is apparently more than could arise from some uses currently permitted for the unit, such as a warehouse. The benefits of this employment creation must be weighed in the balance in determining the appeal.
7. The evidence indicates that the appellant has conducted a lengthy search for suitable premises, including undertaking a sequential search within Honiton. The Council has not suggested that there is any sequentially preferable site available for the proposed use, or indeed that any alternative site or premises would be available at all. Consequently, I must also weigh in the balance that the likely consequence of a decision to dismiss this appeal is that the proposed development will not take place elsewhere, and that the potential advantages in terms of job creation would be lost.
8. Bringing these points together, I do not consider the proposal would be in conflict with the objectives of LP policy E3. Although it would represent a change of use of current employment premises, it would not harm business and employment opportunities in the area. That is because it would represent the introduction of a new business activity which would be beneficial in providing employment opportunities in the town, and there is no evidence to demonstrate that any other potential employment generating uses would be thwarted in finding suitable premises if this change of use were to be allowed.
9. The Economic Development Officer has expressed concern about the precedent that the proposal might set, with the context of other major employment sites

where higher value alternative uses have progressively replaced B Class uses. However, evidence submitted by the appellant indicates that the proposed use is not one which pushes up capital or rental values of property. That evidence has not been challenged. In the light of that evidence, a decision to allow the appeal would not be likely to set a harmful precedent or to take other nearby properties outside the scope of affordability for Class B users. Any future proposals for alternative uses would need to be considered on their own planning merits. On the merits of this case, I have concluded that on balance the proposal would have a beneficial rather than a harmful effect on business and employment opportunities in the area.

10. In reaching that conclusion I have taken into account that the local Chamber of Commerce and Industry supports the proposal. I have also taken into account that the LP suggests that sufficient employment land provision exists in East Devon to meet the requirements of the Devon Structure Plan for the period to 2011, and that the *East Devon District Council Employment Land Review 2006* indicates that there is a substantial level of vacant employment floorspace in Honiton, which would seem to be available should other demands arise which were not engaged by the marketing of the appeal premises. While the Council has referred to a number of reasons why vacancies might occur, such as mismatches of required and available forms of tenure, transitional vacancies between occupations, and the age and relative unattractiveness of some available premises, no evidence has been advanced to show that there are any known alternative potential occupiers available for the appeal premises.
11. I have taken account of all other matters drawn to my attention. There is support for the proposal from local schools and the Early Years and Childcare Service of Devon County Council as providing facilities for local children which are needed. That support weighs in favour of the proposal in the balance of considerations. The local highway authority is now satisfied that sufficient parking spaces would be provided. Noting that Honiton is a relatively compact town, that there is public transport access relatively close by, and that there is a housing area adjacent to the site, I find the proposal to be a reasonably sustainable one in terms of potential to use modes of transport other than the car. I have found nothing in any of the other matters raised that overrides the factors detailed above which have led to my decision to allow the appeal.
12. I have considered the suggested conditions. As some Class D2 uses would have different implications for the industrial estate location, and might not provide the same employment, it is reasonable and necessary to restrict the approved use to a soft play based entertainment centre. A condition relating to parking is also necessary. However, a satisfactory layout has been submitted, and so the condition I am attaching requires implementation of that layout rather than the submission of a scheme.

Stephen Amos

Inspector