
Appeal Decision

Site visit made on 28 November 2016

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 28 December 2016

Appeal Ref: APP/D2510/W/16/3157612

Keyrent Limited, 10 Nickerson Way, Peacefield Business Park, Houlton-le-Clay DN36 5HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Trevor Hendry of Keyrent Limited against the decision of East Lindsey District Council.
 - The application Ref N/085/00701/16, dated 29 March 2016, was refused by notice dated 10 August 2016.
 - The development proposal is described as "outline application with all matters reserved for the development of 20 dwellings and reconstruction of existing office building".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters relating to layout, scale, appearance, access and landscaping reserved for subsequent approval. Plans including a proposed site layout, dwelling typology and perspective views of the proposed development were submitted with the application, but the Design and Access Statement confirms these are indicative only. I have dealt with the appeal on this basis.
3. The site address is stated in the application form as Houlton Business Park. However, the appeal form confirms that the site address is the same as the appellant's address which is at Peacefield Business Park. The signage at the entrance to the business park also contains this name. Accordingly, in the interests of correctness and accuracy, in the banner heading above I have used the address given in the appeal form.

Main Issue

4. Paragraph 47 of the National Planning Policy Framework (the Framework) states that local planning authorities should identify a supply of deliverable sites sufficient to provide 5 years' worth of housing against their housing requirement. The Council acknowledges that it is currently unable to demonstrate a 5-year housing supply. Accordingly, paragraph 49 of the Framework states that the policies for the supply of housing should not be considered up-to-date. Consequently, it is appropriate to consider the appeal proposal in the light of the fourth bullet point of paragraph 14 of the Framework.

5. In view of this and in the light of all of the evidence before me, the main issue in this appeal is whether or not any adverse impacts which may be caused by the proposal would significantly and demonstrably outweigh its benefits, having particular regard to:
- whether the proposed residential development would provide acceptable living conditions for future occupiers, in respect of noise and disturbance;
 - the effect of the proposal on the future operation and growth of the adjacent businesses in Peacefield Business Park; and
 - the contribution of the proposal to meeting any shortfall in housing land supply.

Reasons

Living Conditions

6. The appeal site is located within Peacefield Business Park. It comprises a large triangular parcel of land, fronting the access road into the business park and containing the offices of the appellant's business. The site is surrounded by other commercial and industrial uses. To the west are a number of business units mainly occupied mainly by trade uses, with further units under construction. To the north-west is a large grain processing factory. To the east is a former scrap yard and to the south are buildings containing retail, food and drink and other service uses. The main access to the business park runs along the length of the southern and western boundaries of the appeal site. There is also a weighbridge on the opposite side of the access road close to the western boundary of the appeal site. The A16 road to Grimsby runs along the western side of the business park between 80 and 120 metres from the appeal site. Residential development adjoins the business park to the north and east.
7. Saved Policy A4 of the East Lindsey Local Plan Alteration 1999 (the Local Plan) does not permit development which unacceptably harms residential amenities, including the effects of noise from and traffic movements to and from premises. This is supported by paragraph 17 of the Framework, which seeks a good standard of amenity for existing and future occupants of land and buildings. Paragraph 123 of the Framework also expects planning decisions to avoid noise giving rise to significant adverse impacts on quality of life as a result of new development.
8. The appeal scheme proposes the development of 20 new dwellings within an operational commercial and industrial environment. The adjacent grain processing factory lies around 80 metres from the north-west corner of the proposed residential development. The factory operates year round. The exhaust fans to its seed drying enclosure are located on the eastern side of the factory and would be approximately 100 metres from the nearest proposed dwelling, based on the indicative plans. All of the operational traffic associated with the grain factory and the business park, including HGVs using the weighbridge, would travel along the western boundary of the site, less than 10 metres from the rear windows of the proposed dwellings on the western side of the site, as shown on the indicative plans. All of this activity would create a significant level of noise and disturbance, in very close proximity to the proposed residential properties.

9. I have considered the noise impact assessment, dated March 2016, submitted with the appeal, together with the noise measurements taken by the Council's Environmental Health Officer (EHO), dated April 2016. The two sets of data provide differing interpretations of the noise level generated by the grain factory's fans, in comparison with traffic noise from the A16. My own observations on site suggest that the assessment provided by the Council's EHO is more representative of the noise climate in the vicinity of the appeal site. In particular, I found the noise from the exhaust fans of the grain factory to be dominant and intrusive at the edge of the appeal site, compared to the background noise from traffic on the A16, which was just audible. I note that planning permission has recently been granted for two further extraction fans on the eastern side of the factory (N/085/01823/16), which would be likely to increase noise levels further. At my site visit there was also little traffic movement along the access road and the weighbridge was not in use. With the addition of noise from these sources, including up to 25 articulated vehicles per day coming and going from the grain factory during the busiest times of the year from July-October and January-March, I have little doubt that the level of noise would be unacceptable in a residential environment.
10. I note the mitigation measures proposed in the noise report, including boundary fencing and double glazing with trickle vents. However, it is difficult to see how a 2 metre high fence would be effective in reducing noise from the exhaust fans, which are positioned at a much greater height on the grain factory. As such most if not all noise would carry over the boundary fence, rendering the outdoor amenity space for the proposed dwellings unpleasant to use. I recognise that double glazing can be effective in reducing noise levels experienced internally and that trickle vents provide adequate ventilation. But in the summer months in particular, which coincide with the busiest operating periods for the grain factory, occupiers of the proposed dwellings would be unable to open windows to more effectively ventilate their homes without suffering disturbance from the factory.
11. I acknowledge the presence of housing to the north and east of the grain factory and the absence of recorded noise complaints. However, due to the orientation and design of the factory, the principal sources of noise, namely the exhaust fans and vehicle loading bays, are located on the southern and eastern elevations, where they are screened from the housing to the north and east by the factory buildings. This would not be the case for housing on the appeal site for which there are no intervening buildings to mitigate these noise sources.
12. On this basis, I conclude that the combination of noise and disturbance from the adjacent grain factory, regular use of the weighbridge and HGVs passing along the main access road, all in close proximity to the appeal site, would result in unacceptable living conditions for future occupiers of the proposed dwellings. Accordingly, the proposed residential development would be contrary to saved Policy A4 of Local Plan and would conflict with paragraphs 17 and 123 of Framework.

Business Expansion

13. The appeal site forms part of the Peacefield Business Park allocation at Holton-le-Clay, as shown on the Local Plan Proposals Map. Saved Policy EMP4 of the Local Plan defines acceptable uses within the business park, which specifically exclude residential uses, to maintain a high quality commercial

operating environment. Paragraph 123 of the Framework also recognises the need for noise generating businesses to be able to operate and develop without unreasonable restrictions being placed on them by changes in nearby land uses.

14. It would appear from the recent planning permission for new plant and equipment, which I have referred to above, that the adjacent grain processing factory intends to invest in and improve its business operation. Given my conclusions on the effects of noise and disturbance from the grain factory on the living conditions of future residential occupiers, it follows that a residential use on the appeal site would curtail any further expansion or improvement of that business. Although I have no evidence of expansion plans for other companies within the business park, the same principle would apply given the location of the appeal site at the entrance to the business park and fronting its main access road.
15. I recognise that paragraph 22 of the Framework seeks to avoid the long term protection of sites allocated for employment uses where there is no reasonable prospect of the site being used for the allocated use. In this context I note the results of the viability report submitted with the appeal, which suggest that the appeal site could not viably support a commercial scheme. Notwithstanding this, it is evident that the business park is expanding, with further units under construction. It would appear therefore, that market demand and investment support exists for further commercial development within the business park. On this basis, I am not persuaded that there is no reasonable prospect of the appeal site being used for employment purposes.
16. Accordingly, I conclude that the proposed residential development would place an unreasonable restriction on the future operation and growth of the adjacent businesses in Peacefield Business Park. Consequently, it would be contrary to saved Policy EMP4 of the Local Plan and inconsistent with paragraph 123 of the Framework.

Housing Supply

17. The proposed development would provide 20 new dwellings. Therefore the proposals would help to address the acknowledged shortfall in the 5 year supply of housing in the district. However, paragraph 47 of the Framework emphasises the need to boost significantly the supply of housing. Accordingly, the weight to be attached to this benefit should be related to the amount by which the proposal would boost the housing supply. The Council's latest SHLAA, dated November 2016 confirms that the overall shortfall in housing supply in the district amounts to 553 dwellings. Therefore, the development of 20 new homes would make a modest contribution to reducing this shortfall. Consequently, I attach a modest amount of weight to this as a benefit of the proposal.

Other Matters

18. I note that the adjacent former scrap yard has been assessed for its suitability for residential development as part of the Council's Strategic Housing Land Availability Assessment (SHLAA). However, the emerging East Lindsey Core Strategy remains at an early stage of preparation and limited weight can yet be attached to any proposed site allocations. It is also worth noting that the Council has not assessed the appeal site as suitable for residential development

as part of the SHLAA. Therefore, I attach little weight to the potential for a change in the development plan allocation of the former scrap yard site, in support for the appeal proposals.

19. The proposed development also includes a new office building on the northern part of the site. No objections have been raised to this part of the proposal. I have no reason to disagree, as the office building would be an appropriate use within the business park under the terms of saved Policy EMP4 of the Local Plan. However, this does not add any weight in support of the proposed residential scheme.

Planning Balance

20. It is common ground for the purposes of this appeal that the Council is unable to demonstrate a 5-year supply of deliverable housing sites and therefore that the policies relevant to the supply of housing in the district are out of date. Accordingly, under the presumption in favour of sustainable development in paragraph 14 of the Framework, permission should be granted to the appeal proposal unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
21. Overall, I conclude that the adverse impacts described above on the living conditions of future occupiers of the proposed dwellings and on the future operation and growth of businesses within Peacefield Business Park, which would result from the proposed residential development, would significantly and demonstrably outweigh the modest contribution which 20 additional homes would make in boosting the supply of housing in East Lindsey. On this basis the proposal would not constitute sustainable development.
22. Although the proposed new office building would be acceptable in principle, given that the application was in outline and reserved matters for details such as access or landscaping could affect the whole site, I have concluded that the office component would not be clearly severable from the residential scheme. Therefore, it is not possible to issue a split decision in this case.

Conclusion

23. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR