



Appeal Decision

Site visit made on 13 June 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 5th July 2017

Appeal Ref: APP/J0540/W/17/3171964

Land South of Ideal Home House, Newark Road, Fengate, Peterborough

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr A Beeson against the decision of Peterborough City Council.
 - The application Ref 16/02168/WCPP, dated 10 November 2016, was refused by notice dated 14 February 2017.
 - The application sought planning permission for erection of 14no. units for B1(c)/B2/B8 Employment use in 4 separate blocks, construction of estate road, car parking, service yard areas and electricity substation without complying with a condition attached to planning permission Ref 16/01296/FUL, dated 6 October 2016.
 - The condition in dispute is No C17 which states that: *Prior to the commencement of development, and notwithstanding the submitted details, details shall be submitted to and approved in writing by the local planning authority which shall include provision of a continuous 2m wide footway link to the bus stops on Newark Road to the south of the site as shown on DRWG Peterborough City Council HCT 16/01296/FUL Newark Road dated 21.09.16.*
The main elements of the scheme will include (but not necessarily exclusively):-
A 2m footway link;
Appropriate uncontrolled crossing points at accesses and to connect to existing footways in the vicinity;
Any necessary amendments to street furniture;
Any necessary improvements to street lighting; and
Any necessary amendments to kerbing
The approved details shall be completed in full prior to the first occupation of any unit, or completion of the development, whichever is sooner.
 - The reason given for the condition is: *In the interest of highway safety, and to promote the use of sustainable modes of travel, in accordance with Policies CS14 of the Peterborough Core Strategy DPD (2011) and PP12 of the Peterborough Policies DPD (2012).*
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Decision

1. The appeal is allowed and planning permission is granted for erection of 14no. units for B1(c)/B2/B8 Employment use in 4 separate blocks, construction of estate road, car parking, service yard areas and electricity substation at Land South of Ideal Home House, Newark Road, Fengate, Peterborough in accordance with the application Ref 16/02168/WCPP dated 10 November 2016, without compliance with condition number C17 previously imposed on planning permission Ref 16/01296/FUL dated 6 October 2016 and subject to the conditions in the attached schedule.

Preliminary Matters

2. The original application sought permission to carry out the development without complying with condition C17 and to vary condition C3 (drainage details). However, the Council has confirmed that during the course of the application an agreement was reached in relation to drainage details and the application was amended accordingly. The appellant has not disputed this. I have therefore considered the appeal on the basis of the application that was determined by the Council for the removal of condition C17 only.

Background and Main Issue

3. Permission was granted in 2016 for the erection of 14 industrial units set in four blocks, the construction of an estate road, car parking, service yard and electricity substation. I saw at my site visit that the permission has been implemented and construction is well underway.
4. The appeal seeks permission to carry out the development without complying with condition C17. This requires the provision of a footway link to the bus stops to the south of the site. The main issue is whether the footway is necessary to ensure highway safety and to promote sustainable modes of transport.

Reasons

5. The appeal site is situated within the busy Fengate General Employment Area, an area comprising of a mix of commercial and industrial uses of a range of sizes. I saw at my site visit, which took place mid-afternoon on a weekday, that Newark Road was busy with a continuous flow of traffic in both directions.
6. The appeal site is located approximately 365m from bus stops to the north and approximately 455m from those to the south. Whilst there is a continuous footpath from the site to the bus stops to the north, there is no footpath connection to the southern bus stops. The Council are concerned that those travelling by bus from the city centre would be more likely to alight at the southern bus stop for convenience purposes thereby causing a highway safety hazard as pedestrians would be forced to walk on the verge or carriageway.
7. The National Planning Policy Framework (the Framework) indicates that conditions should only be imposed where they meet six tests. These tests are expanded on in the National Planning Policy Guidance (the PPG). The first test relates to necessity and, in simple terms, this requires a consideration as to whether, without the condition, would it be appropriate to refuse planning permission.
8. Whilst I accept that a footway connecting the site to the southern bus stops would give those working or visiting the appeal site more choice, the site is accessible by non-car modes via a safe and convenient pedestrian link to the north. The Council states that it would take in the region of 10-15 minutes to walk from the northern bus stop back to the appeal site. However, given that this bus stop is approximately 90m closer to the appeal site, I do not consider that this would cause an inconvenience for those working or visiting the site. I accept that the bus would reach the southern bus stop in the first instance when travelling from the city centre. Nonetheless, I am not persuaded that for the sake of a few moments more on the bus, those wishing to access the appeal site would necessarily alight here as in my opinion the lack of a footway

- would act as a deterrent, especially at night and in inclement weather. To my mind, the most convenient route would be the closest bus stop and that with a footpath connection.
9. Furthermore, there are a number of existing businesses along Newark Road which lack footway connection to the bus stop. Even if those working or visiting the site did choose to alight at this bus stop there is no compelling evidence before me, such as accident data, of an existing problem in terms of highway safety as a result of the lack of a footway.
 10. I have had regard to the imposition of a similarly worded condition on planning permission granted for a site to the south of the appeal site. However, each application must be assessed on its own merits and in any case the sites are not directly comparable in locational terms given their respective distances to the bus stops.
 11. Therefore, whilst I accept that a footway link to the southern bus stop would be desirable, given the existence of a safe and convenient route to the northern bus stop, I conclude that it is not necessary in order to ensure highway safety or to promote sustainable modes of transport. I therefore find no conflict, in this regard, with Policy CS16 of the Peterborough Core Strategy (2011) and PP12 of the Peterborough Planning Policies DPD (2012) which seek to ensure, amongst other things, that development is accessible by all user groups, taking into account of the priorities set out in the Peterborough Local Transport Plan and that it does not have an unacceptable impact on the transportation network including highway safety.
 12. For the reasons set out above I conclude that the appeal should be allowed. I will grant a new permission without the disputed condition. The PPG also makes clear that decision notices for the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. Therefore, I shall impose all those non-disputed conditions from the previous permission that still appear to be relevant having regard to the Council's suggested conditions which take into account those which have been discharged. As the development has commenced, there is no need for me to impose the time limit for commencement of development condition. I have amalgamated suggested conditions C2 and C3 into condition 1 in order to avoid repetition. I have made a slight amendment to suggested condition C6 (now condition 4) to take into account that the development has commenced). I have also removed the listed plans from the final condition that are already stipulated in condition 1.

Caroline Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development shall be carried out in accordance with Drawings 1797-02A (Proposed External Levels), 1797-03A (Proposed External Levels), 1797-04B (Proposed Drainage Strategy), 1797-12 (Proposed Drainage West), 1797-13 (Proposed Drainage East) and 1797-14A (Online Storage Details). No building shall be occupied until the works have been carried out in accordance with the approved scheme.
- 2) The development shall only be implemented in complete accordance with the recommendations set out within the submitted preliminary Ecological Appraisal (July 2016). Further to this, prior to the occupation of the unit to which it relates details of bird and bat boxes shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the bird and bat boxes shall be implemented in accordance with the approved details and thereafter retained in perpetuity.

Should no development take place within two years from the date of permission being granted an updated ecological survey shall be submitted to and approved in writing by the Local Planning Authority. Thereafter any mitigation required as part of the ecological survey shall be implemented in accordance with the approved details.
- 3) Notwithstanding the submitted details no development shall take place above slab level until a scheme for the hard and soft landscaping of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the following:-
 - Proposed finished ground and building slab levels
 - Planting plans including retained trees, species, numbers, size and density of planting
 - An implementation programme (phased developments only)
 - Details of any boundary treatment
 - Compensatory landscaping as set out in Appendix 4 of the Ecological Report.

The approved hard landscaping scheme shall be carried out with regard to the unit to which it relates, prior to the occupation of that unit and the soft landscaping shall be carried out within the first available planting season following completion of the development or first occupation (whichever is the sooner) or alternatively in accordance with a timetable for landscape implementation which has been approved as part of the submitted landscape scheme.
- 4) Construction shall take place in accordance with the Construction Management Plan (Barnack Estates, October 2016-2017) and the email received from David Turnock to Peterborough City Council (06.01.17).
- 5) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those indicated on the submitted plans and application form.
- 6) Lighting shall be arranged so that no danger or inconvenience is caused to users of the adjoining public highway. Details of the proposed lighting shall be submitted to the Local Planning Authority and approved in writing prior to its first use. No other external lighting shall be erected other than that approved.

- 7) The buildings shall not be occupied until the areas shown as service yards on the approved plan have been drained and surfaced, in accordance with details submitted to and approved in writing by the Local Planning Authority, and those areas shall not thereafter be used for any purpose other than for the loading and unloading of vehicles.
- 8) The buildings shall not be occupied until the area shown as parking for that building on the approved plan has been drained, surfaced and marked out in bays in accordance with details submitted to and approved in writing by the Local Planning Authority, and those areas shall not thereafter be used for any purpose other than the parking of vehicles, in connection with the use of the building.
- 9) No unit shall be occupied until space has been laid out within the site in accordance with the approved plan for vehicles to turn so that they may enter and leave the site in forward gear, and those areas shall not thereafter be used for any purpose other than the turning of vehicles.
- 10) Notwithstanding the submitted information details of cycle parking shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking shall be implemented in accordance with the approved details prior to the occupation to the unit to which it relates, or on completion of the development, whichever is sooner, and those areas shall not thereafter be used for any purpose other than the parking of cycles.
- 11) The buildings shall not be occupied until a means of vehicular and pedestrian access has been constructed in accordance with the approved plans.
- 12) Visibility splays clear of any obstruction over a height of 600mm above footway level shall be provided on either side of the junction of the proposed access road with the public highway. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the proposed access road from its junction with the channel line of the public highway, and 47m measured along the channel line of the public highway from the centre line of the proposed access road. (N.B. The channel line comprises the edge of the carriageway or the line of the face of the kerbs on the side of the existing highway nearest the new access).
- 13) The vehicular access hereby approved shall be ungated.
- 14) Within 6 months of occupation of the unit to which it relates a travel plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the travel plan shall be implemented in accordance with the approved details.
- 15) Notwithstanding the submitted details no more than 10% of the total floor area to which the unit relates shall be used as a trade counter.
- 16) The rating level of noise emitted from the site should not exceed 50 dB LAeq, 1 hour between 07:00 and 23:00 40 dB LAeq, 15 minutes at any other time. The noise levels should be determined at the nearest noise sensitive premises. The measurements and assessment should be made according to BS:4142:2014.

- 17) If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted, and obtained written approval from the LPA, a Method Statement detailing how this unsuspected contamination shall be dealt with.
- 18) Notwithstanding the submitted details the units hereby approved shall only be occupied for B1(c), B2 or B8 uses, with the exception of Unit 5 as shown on Drwg 2258AP0101_D which shall only be occupied as a B8 use, and no other use or permitted change as set out under the Town and Country Planning (Use Classes Order) 1987 (as amended).
- 19) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 2258_SK0007_A - Visual Presentation
 - 2258AP0204_A - Site Plan and elevations units 7-14
 - 2258AP0101_A - Proposed site layout
 - 2258AP0201_A - Site plan and elevations Units 1-4
 - 2258AP0203_A - Site plan and elevations Unit 6
 - 2258AP0202_A - Site plan and elevations Unit 5
 - 2258AP0102_A - Location plan
 - 2258AP0101_D - Proposed site layout
 - 2258AP0205_A - Site access visibility splay
 - NRP-RGL-00-00-DR-D-105-0001_S1-P1_P1 - Vehicle tracking