
Appeal Decision

Hearing held on 26 July 2017

Site visit made on 26 July 2017

by B Bowker Mplan MRTPI

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

Decision date: 24 August 2017

Appeal Ref: APP/M3455/W/17/3172602

Land off Dewsbury Road, Fenton, Stoke-on-Trent

- 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 Dunedin Homes against the decision of Stoke-on-Trent City Council.
 - The application Ref 60068, dated 15 July 2016, was refused by notice dated 1 March 2017.
 - The development proposed is outline planning application with all matters reserved except for access for the development of up to 296 homes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal as submitted is for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis. The layout plan submitted with the planning application has been taken into account for indicative purposes.
3. It is common ground that, as the Council cannot demonstrate a five year housing land supply, paragraph 14 of the National Planning Policy Framework (the Framework) is engaged. Based on the evidence before me, I have no reason to disagree with the consensus view on this matter. Paragraph 14 bullet point 4 of the Framework is applied to the proposal as part of the 'planning balance' exercise identified below.

Main Issues

4. The main issues are:
 - Whether the proposal would result in severe residual cumulative impacts on transport grounds; and,
 - The planning balance: whether the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits.

Reasons

Transport

5. The appeal site is located within Fenton Industrial Estate and is principally accessed via Dewsbury Road which leads onto the A50. The site is surrounded by commercial and industrial uses, including a car/van pre-delivery inspection centre and storage site to the north which operates on a 24/7 basis. Allotments and residential use are to the south of the site. The site falls within the Outer Urban Area as defined by Core Spatial Strategy (CSS) Policy ASP3.
6. CSS Policy ASP3 is pertinent to the Council's case. Of relevance, point 11 states that brownfield development opportunities adjacent to strategic transport corridors should be supported where this does not prejudice the sustained regeneration of the Inner Urban Core and City Centre. The A50 runs in a south to north direction through the Inner Urban Core and directly into the City Centre. Point 2 of the policy is also relevant and states that the Outer Urban Area must be allowed to grow in a manner which meets local needs but does not prejudice the sustainable regeneration of the Inner Urban Core.
7. The Council are concerned that the proposal would harmfully affect journey time and reliability along the A50 to an extent that would prejudice and undermine City Centre attractiveness and investment. In addition, a number of bus services traverse this section of the A50 which is a priority route as acknowledged by point 7 of Policy ASP3. Based on all I have heard, read and seen, irrespective of ongoing wider highway network projects to improve accessibility to the city centre, the A50 is a busy and important strategic transport corridor into the city centre from the southern approach.
8. At the hearing, the Council outlined ongoing public and private investment to regenerate the City Centre. It is clear that the Council remain committed to achieve the sustained regeneration of the City Centre as envisaged by Policy ASP3. The parties do not agree on the weight to be afforded to CSS Policy ASP3 in the context of the Framework paragraph 215. Policy ASP3 does not specify what development would prejudice sustained regeneration and does not refer to severe residual cumulative transport impacts. However, I agree with the Council that unacceptable impacts on the operation of the highway network could prejudice city centre economic attractiveness. I also agree that the policy is in accordance with sustainability principles advocated by the Framework. Consequently I afford points 2, 7 and 11 of Policy ASP3 full weight.
9. Nonetheless paragraph 32 of the Framework is clear that a refusal of permission on transport grounds is justifiable only when the residual cumulative impacts are severe. The proposal would involve the delivery of off-site highway works, which of principal concern to the Council is the proposed roundabout at the A50/Dewsbury Road junction. Notwithstanding its concerns regarding the modelling results, the Council confirmed at the hearing that the sensitivity tests¹ undertaken have overcome its criticism of the modelling software used. This aside, the Council still have a number of concerns regarding the modelling undertaken used to inform the design and predict the performance of the roundabout.
10. Firstly, the Council contend that the modelling undertaken considers the Dewsbury Road/A50 junction in isolation and does not fully take into account existing congestion problems along the A50. Existing congestion problems were accounted for by the appellant via reviews of video footage for the

¹ Contained within RCA Technical note dated 10 January 2017

A52/A50 and King Street/City roundabouts. The review identified occasional short lived blocking at the east A52 arm but concluded that on the survey day the junction operated well. Occasional blocking at the King Street/City Road roundabout was also identified from the video footage although the circulating lanes were largely unaffected. The appellant's site observations also identified a contributory problem of vehicles parked on double yellow lines in the surrounding highway network.

11. I viewed traffic travelling along the A50, navigating the A52/A50 and King Street/City roundabouts and the Dewsbury Road/A50 junction at peak AM and PM times as suggested by the Council. With a number of schools in the surrounding area, I acknowledge that my out of term time site visit would not fully capture the likely traffic levels at these identified pinch points. At AM and PM visits the King Street/City Roundabout was relatively free moving with limited blockage. However I saw long queues of vehicles at both AM and PM times at the Dewsbury Road/A50 junction and A52/A50 Roundabout. A consequence of the peak time congestion at these locations is that straight ahead movements both north and south prevent vehicles from exiting Dewsbury Road onto the A50 junction in a timely manner. The congestion I observed at the A52/A50 roundabout also prevented timely exit onto the adjoining arms.
12. Based on my site visit observations, I am not convinced that vehicles parking on double yellow lines would have a material effect on the congestion at the noted junctions and along the A50. My site visit observations correlate with the analysis contained within the Transport Assessment (TA) which indicates that the junction of Dewsbury Road/A50 is currently operating very close to capacity with long average delays at the PM peak hour.
13. I agree that an element of congestion is caused by active frontages along the A50 and driver behaviour at the A50/Dewsbury Road junction. However such factors do not render existing traffic congestion levels along the A50 as acceptable. Based on the case put forward by the Council and my site visit observations, the video footage analysis appears limited in its scope and does not fully account for existing congestion problems. This casts doubt upon the reliability of the modelling used to predict the efficacy of the roundabout in future years.
14. Secondly the parties disagree about whether the correct geometric measurements have been used for the proposed roundabout. Based on the submitted AutoCAD screenshots, the appellant's measurements and locations for the A50 north and south entry widths and approach road half widths are the most compelling form of evidence before me in this respect. However, as the proposed A50 south approach to the roundabout does not tie in with the existing kerb line, the south approach half width has been overestimated.
15. As the existing kerb line forms part of a wide pavement, an adequate design solution could be secured at the reserved matters stage. However, it became apparent during the hearing that a number of additional revisions to the roundabout design would be necessary to fully implement the Road Safety Audit recommendations. Such revisions would further alter the dimensions of the roundabout and thus invalidate the modelling data provided. In this respect I share the Council's concern that the geometry used in the modelling exercise has overestimated the capacity of the roundabout.

16. I accept that design details for highway works often form part of the reserved matters stage and agreements made under Section 278 of the Highways Act 1980. In addition, the Framework at paragraph 32 bullet point 3 also establishes that transport mitigation measures must be cost effective. However, taking into account the existing capacity issues along the A50 and the A50/Dewsbury Road junction, a compelling case exists to secure these details at the outline application stage.
17. The Transport Plan (TP) seeks to encourage sustainable modes of transport and anticipates that as a result of its measures, single occupancy car journeys associated with the proposal would be reduced from 68% to 58% of all journey types. It is common ground that the application site is accessible via multiple modes of transport with good links to services, community uses and employment opportunities. The appellant confirmed that the anticipated TP outcomes have not been fed into the modelling exercise. This aside, balanced against the concerns I already have regarding the reliability of the modelling work undertaken, the reduction in private vehicular travel if realised would have a limited effect on congestion rates in the vicinity of the site. In any event, despite the shortcomings identified above, the results of the modelling exercise undertaken are of concern.
18. I agree with the Council that 0.85 is the generally accepted maximum rate for Ratio to Flow Capacity (RFC) for ARCADY modelling exercises. The modelled results of the roundabout show that the maximum RFC is exceeded at the junction for the 'with development' scenario in 2023 from the A50 north and south approach at both AM and PM peak times.
19. With regard to the 'with development' modelled results, RFC rates peak at 0.97 at the AM A50 southern approach and at 0.94 at the AM A50 northern approach. Both of these AM approaches would result in delays of approximately 47 and 27 seconds respectively and an unstable Level of Service of E and D. At the PM peak hour, the Dewsbury Road A50 southern approach would have an RFC at 0.85 with an approximate delay of 25 seconds per vehicle. The PM A50 northern approach to Dewsbury Road would also have an RFC close (0.84) to the generally accepted maximum rate with an approximate 24 second delay per vehicle. The modelled results indicate that at both AM and PM peak times, the proposed roundabout would operate beyond generally accepted maximum RFC rates and would involve significant delays.
20. As discussed at the hearing, no analysis has been undertaken to establish the existing extent of delays for straight ahead movements from both the A50 north and south approach. Based on my site visit observations, this is the most dominant movement that results in congestion at the junction. However, the evidence before me indicates that the junction is already operating at capacity at AM and PM peak hours with regards to movements from Dewsbury Road onto the A50 both north and south. Furthermore, without the proposed roundabout, this situation would worsen in future years.
21. The modelling results indicate that the roundabout would reduce traffic delays for movements from Dewsbury Road to the A50 north and south and thus would improve access for businesses at Fenton Industrial Estate onto the A50. In this respect, the proposal would assist in alleviating access concerns identified by the Council's 2011 and 2015 Employment Land Review.

- Furthermore, the evidence indicates that only residential development at the site would be viable enough to deliver the proposed roundabout.
22. However, the modelling results indicate that the proposal would result in significant capacity issues and delay for straight ahead movements at the A50 from south and north approaches at both AM and PM peak time by 2023. This is a dominant movement pattern at the junction and along the A50. Consequently the accessibility benefits for vehicle users entering the A50 from Dewsbury Road would be outweighed by the increased delays incurred for traffic moving to and from the Inner Urban Core and City Centre.
23. Moreover, based on my reasoning above, the modelling undertaken has overestimated the capacity of the proposed roundabout and not fully accounted for existing congestion along the A50. Consequently, the RFC rates and delays identified by the modelling exercise are likely to be significantly underestimated.
24. In reaching this view, I have taken into account the previously approved development² for B1, B2 and B8 uses at the site. The previous development did not propose highway mitigation measures and would result in RFC flows in excess of 1 for right turns off Dewsbury Road onto the A50. The approved development followed a Public Inquiry relating to employment use at the site in which the Inspector concluded that a refusal of permission on transport grounds would be unjustified.
25. However since the 2006 approval the Council's records indicate that AM and PM traffic flows have increased at the A50/Dewsbury Road junction; particularly along Dewsbury Road. In addition, as the appellant's traffic flows relate to Annual Average Daily Traffic measurements they are unlikely to fully capture AM and PM peak use of the junction. Furthermore, since the approval, the Council have adopted the CSS which includes the strategic approach to the regeneration of the Inner Urban Core and City Centre advocated by Policy ASP3.
26. I understand that the access road relating to the previously approved development has been constructed. However, based on the evidence before me, as the pre-commencement conditions attached to the permission have not been discharged, the permission at the site is no longer extant. Moreover, the evidence before me indicates that it is unlikely that such a proposal would be viable. Consequently I afford minimal weight to the fall-back position put forward by the appellant.
27. During the hearing, the appellant asserted that the Council have granted permission for employment related applications in the vicinity of the site without requiring highway mitigation measures. In response, the Council outlined that recent employment applications generated low traffic rates. Limited details are before me in relation to this matter. It was also put to me that the need for mitigation at the junction would place a moratorium on development in the area. These matters aside, such circumstances would not justify or reduce the severe residual cumulative impacts on transport grounds associated with the proposal.

² 46265/OUT, granted 21 December 2006. Reserved matters (49276/RES) approved 03 February 2010.

28. Therefore the proposal would result in severe residual cumulative impacts on transport grounds. Consequently the proposal would be contrary to CSS Policy ASP3 point 11 and paragraph 32 of the Framework, the requirements of which are outlined above.

Planning Balance

29. Paragraph 14 bullet point 4 of the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. A number of benefits are put forward in support of the proposal.
30. The proposal would result in a number of social benefits which include its sizeable contribution towards addressing the continued housing shortfall in the area and increase in household choice; particularly by providing much needed high value housing as identified by the Council's Strategic Housing Market Assessment for the local sub-market area.
31. Furthermore the proposal would accord with CSS policies SP1 and SP3 insofar as they seek to deliver new homes in the Outer Urban Area and in urban centres such as Fenton. In addition, the proposal has good non-private vehicular levels of access to key services and facilities. In this respect, the proposal would assist in halting outward migration, attract population to the locality and thus contribute to strategic aims of the CSS which seek to deliver a better choice of property in sustainable locations. In addition, CSS Policy ASP3 envisages that a minimum of 5,100 dwellings will be built within the Outer Urban Area.
32. During the hearing, the Council could not specify the extent of housing shortfall. The appellant outlined that the most up to date account of housing land supply is set out in an April 2014 appeal decision referred to in the Statement of Case. The appellant states that the decision established that there was a significant shortfall of housing land supply in April 2014. As no substantive evidence is before me to the contrary or to indicate that the housing land situation has improved since, I conclude that a significant shortfall in housing land supply still persists in the plan area. In this context, I afford sizeable weight to the proposal's contribution to housing land supply.
33. The Viability Report, dated September 2016, by RCA Regeneration for the appellant has concluded that the proposal would become unviable should affordable housing and financial contributions be sought. I also note that the Council do not challenge the conclusions of the submitted Viability Report. The Council's education team identifies primary school capacity issues within the catchment area of the site. As no mitigation is proposed, the proposal would exacerbate primary school capacity problems in the area. This attracts some weight against the proposal. Whilst the proposal would not meet affordable housing requirements, it would nonetheless help address an imbalance caused by a predominance of social housing in the Outer Urban Area identified by CSS Policy ASP3. In this respect and based on the evidence before me, the absence of affordable housing provision attracts limited weight against the proposal.
34. Economic benefits would arise directly and indirectly via employment created during the construction process and by future residents supporting services and facilities in the surrounding area by additional spending and increasing local

labour supply. The proposed roundabout would improve accessibility and long term viability for businesses at Fenton Industrial Estate; a constraint highlighted in the Council's 2011 and 2015 Employment Land Reviews. The proposal would also generate New Homes Bonus revenue. These benefits attract some weight in favour of the appeal.

35. Environmental measures in the form of landscaping areas and bat and bird boxes are proposed. Furthermore, in the context of paragraph 109 of the Framework, the proposal would remediate and reuse a longstanding contaminated and unstable site which could not be delivered by employment use. The proposal would also include measures to reduce the reliance of future occupants on private vehicle journeys. These benefits attract some weight in favour of the proposal.
36. However, based on my reasoning above, the proposal would result in severe residual cumulative impacts on transport grounds. Furthermore, points 2 and 11 of CSS Policy ASP3 are clear that the Outer Urban Area must be allowed to grow in a manner which meets local need but does not undermine the sustainable regeneration of the Inner Urban Core, including brownfield development alongside strategic transport corridors.
37. The resultant residual severe impacts on transport grounds would significantly undermine the sustained regeneration of the Inner Urban Core and City Centre. This harm would significantly and demonstrably outweigh the combined weight afforded to the benefits identified above. Accordingly, the proposal would not simultaneously achieve the economic, social and environmental dimensions necessary to be considered as sustainable development as defined and sought by the Framework. It is on this basis that the appeal must fail.

Conclusion

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

B Bowker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Deeley Mplan (Hons) MRTPI	Planning Consultant, RCA Regeneration
Sarah Loynes BEng CMILT	Director, RCA Regeneration
Chris Baker	Director, Dunedin Homes
David Kelly	Director, Dunedin Homes
Andrew Baines	Associate Director, Systra

FOR THE LOCAL PLANNING AUTHORITY

Philip Murphy	Senior Planning Officer
Thomas Coates BSc (Hons) MSc (Regen)	Team Manager, Planning Section
Chris Haycock	Senior Highway Engineer
Chris Oakley BSc (Hons) MSc (Eng) MSc CMILT	Principal Transportation Officer

INTERESTED PERSONS

Jonathan Young	Greenhous Fleet Services
Philip Owen BEng (Hons) CEng MICE MIHT	Highway Consultant, Optima Highways
Andrew Windress MA MRTPI	Planning Consultant, ID Planning

DOCUMENTS SUBMITTED AT THE HEARING

1. Map showing inner urban core, extended city centre boundary, planning applications and housing zones, submitted by the Council.
2. General Arrangement Roundabout Plan (drawing number MID4473 – 001) submitted by the appellant.