The Planning Inspectorate

Appeal Decision

Site visit made on 14 September 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 19th October 2017

Appeal Ref: APP/H0928/W/17/3178108
Land adjacent to Kirkby Thore Industrial Estate, Penrith CA10 1XA

- 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 Mr T Bradley against the decision of Eden District Council.
- The application Ref 17/0001, dated 24 December 2016, was refused by notice dated 15 June 2017.
- The development proposed is change of use to store caravans/trailers and steel containers to use as self storage units.

Decision

1. The appeal is allowed and planning permission is granted for change of use to store caravans/trailers and steel containers to use as self storage units at land adjacent to Kirkby Thore Industrial Estate , Penrith CA10 1XA in accordance with the terms of the application, Ref 17/0001, dated 24 December 2016, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr T Bradley against Eden District Council. This application is the subject of a separate Decision.

Procedural Matter

3. Following the submission of the appeal, the Lake District area was designated as a UNESCO World Heritage Site (WHS) for selection criteria (iii), (iv) and (vi) relating to its importance as a traditional human settlement and representative of culture or human interaction with the environment and associated with traditions, beliefs, artistic/literary works of universal significance. As the appeal site lies close to the boundary of the Lake District area, the main parties were invited to consider the implications of the designation and to make any further comments as they felt necessary. I have taken their comments into consideration and am of the opinion that due to its location and modest nature, the proposal would not cause material harm to the significance of the WHS or its setting.

Main Issues

4. The main issues are the effect of the proposal on:

    - The living conditions of nearby residents with particular regard to the fear of crime and noise and disturbance; and
    - The character and appearance of the area.

Reasons

Fear of Crime

5. The appeal site comprises an L-shaped paddock on the edge of the village of Kirkby Thore, immediately adjacent to a small industrial estate with which the proposal would share an access. The industrial estate contains 6 workshops/business units and benefits from permission for a further 5. A residential housing estate lies opposite the site. The site is identified as land allocated for employment by Policy EM3 of the Eden Local Plan (1996) (ELP) which supports the principle of development for B1, B2 and B8 uses at the site.

6. The proposal includes a secure compound for storage containers and caravan and trailer storage for rent. The site would be surrounded by an approximately 1.95 metre thin mesh fence, supplemented by planting with additional landscaping to the entrance. The site would have a hardcore/gravel surface and the submitted plans show 32 storage containers located in the south west of the site closest to the entrance, space for 25 caravans to the rear of the industrial estate and a further 9 bays for either trailer, caravan or storage containers along the south east boundary.

7. The Council and local residents are concerned that with a potential 24/7 unrestricted use of the site, the change of use would lead to an increase in the fear of crime. However, for fear of crime to be material, there must be some reasonable evidential basis for that fear. I have no substantive evidence before me to suggest that a use of this nature would lead to problems of crime. Furthermore, the appellant has indicated that they would be agreeable to a condition requiring further security measures at the site such as CCTV which I agree is a valuable tool in the prevention and detection of crime. Taking the above into account, I find nothing within the evidence to suggest that this form of development would necessarily result in an increase in crime, or a justifiable increase in the fear of crime.

8. The road from which the site would be accessed is the main transport route to and from the Saint-Gobain Works (former British Gypsum Plant). At my site visit, which I realise is only a snapshot in time, I observed large haulage vehicles regularly passing through. Taking this into account together with the presence of the industrial estate, I do not agree with the Council that the area is necessarily one of peace and tranquillity. Rather, given the existing nearby uses and traffic using the road, local residents are already subject to a degree of noise and disturbance.

9. I note that the Council accept that rubber gaskets on the steel storage containers would help reduce noise impacts from opening and closing and I have no reason to disagree. The appellant states that the 'Self Storage Association Annual Report on Visit Frequency' supports the notion that self-storage is a low traffic business with only 3% of the total use being once a day and 31% once a month. Moreover, the appellant's records from their existing storage facility at Appleby show that on average caravans move 3 times a year. In the absence of any substantive evidence to the contrary I am satisfied that that the level of movement generated by the proposal would not lead to a level of noise and disturbance that would cause undue harm to the living conditions of nearby residents. Furthermore, the hours of operation can be secured by condition so that the site would not operate for 24 hours a day which the appellant has indicated he would be agreeable to.

10. I therefore conclude that the proposal would not have a materially harmful impact on the living conditions of neighbouring residents and find no conflict with Policies EM3 and EM5 of the ELP and Policy CS18 of the Eden Core Strategy (2008) (CS) in this regard. These seek, amongst other things, those proposals for developments on allocated employments sites are judged against and protect the amenity interests of any nearby users or local residents.

Character and appearance

11. Given the appeal site is currently undeveloped, there is no doubt that the proposal would result in a perceptible change to its character and appearance. However, whilst the site has some rural characteristics, given its proximity to the industrial estate, it has little influence on the surrounding landscape and its contribution to the wider countryside is somewhat limited.

12. I must also consider that the land is allocated for employment purposes and as such a B8 use, which includes open air storage, is acceptable in principle. Although I acknowledge that this does not negate the need for careful consideration of its impact on the character and appearance of an area. That said the proposal would be seen in the context of the existing metal industrial units which would also screen a portion of proposal from outside the site. I agree with the Planning Officer that the 1.95 metre mesh fence, similar in appearance to that surrounding the industrial estate, would also provide a small level of screening. Moreover, additional perimeter planting is proposed which can be secured by condition. Whilst this may take some time to grow, I am not persuaded that in this instance this would justify withholding permission. The appellant is also willing to paint green those storage containers which would be most apparent from outside the site. Taking the above into account, I am satisfied that, together with the proposed mitigation, the proposal would not have a materially harmful effect on the character and appearance of the area.

13. I therefore conclude that the proposed change of use would not have a detrimental impact on the character and appearance of the area and find no conflict with Policies CS16 and CS18 of the CS in this regard which seek, amongst other things, development which accords with the principles of protection and enhancement of the landscape and shows a clear understanding of the form and character of the District's built and natural environment.

Other Matters

14. I have had regard to the numerous representations of concern received, including the petition. Numerous letters of support have also been submitted including a petition in this regard. There is no doubt that there is strong local feeling about this proposal. I acknowledge concerns relating to the nature of contents to be stored on the site. However, the storage of hazardous materials, for example, would be subject to separate consent. I do not agree that there would be no benefits to the scheme, it would of course benefit those who wish to use the facility and would generate one full time and two part time jobs. In relation to parking and traffic concerns, I note the Highway Authority did not object to the proposal and I have no reason to come to a different view. The proposed fence would be similar to that surrounding the existing industrial estate and would not look out of keeping. The layout plan denoting the number of bays for storage and caravans would form part of the approval and any deviance would be in breach of such a condition. There is no compelling

evidence before me to suggest that the proposal would be a danger to children, that it would lead to an increase in pollution or fumes or have an adverse impact on any land drains. The proposal does not include any external lighting and the installation of such can be controlled by condition to ensure that it would not have an adverse impact on neighbour amenity.

15. I acknowledge that the site is not allocated for employment in the emerging Eden Local Plan. However, it has not yet been adopted which limits the weight that I can attach to it and there is nothing before me to suggest that the emerging Local Plan would preclude the site from an employment use. The starting point for decision making is the development plan, which at this time is the Eden Local Plan (1996). Saved Policy EM3 allocates this site for employment use. The Planning Officer's report confirms that overall the development plan establishes the principle of acceptability for a business use under planning use class B8 on this site. In coming to my conclusions on the issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have evaluated against the provisions of the development plan and the National Planning Policy Framework. For the reasons set out above, I find neither conflict with the relevant policies nor any other material harm.

Conditions

16. I have considered the conditions suggested by the Council in light of paragraph 206 of the National Planning Policy Framework. I have made slight variations to the wording in light of the tests therewith and in the interests of clarity and precision.

17. It is necessary that the development is carried out in accordance with the approved plans in order to provide certainty. Those relating to landscaping and the location and colour of storage containers are necessary in order to ensure a satisfactory appearance. Conditions relating to security measures and lighting are necessary in order to protect the amenities of nearby residents.

18. Although the original application did not propose any opening hours, the Council suggested 0800-1800 every day and not at all on bank holidays. In his final comments, the appellant submitted that the suggested opening hours would be too restrictive and put forward the hours of 0800-2200 as a more reasonable alternative. The Council was given the opportunity to comment on the appellant's proposed opening hours. Whilst I agree unrestricted opening hours would not be appropriate, in light of the scale and nature of the use, the low number of anticipated movements and its proximity to an industrial estate with no restriction on hours of operation, I have imposed the opening hours of 0800-2200 as I consider this would adequately protect the amenity of local residents.

Conclusion

19. For the reasons given above and taking into account all matters raised, I conclude that the appeal should be allowed.

Caroline Jones

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1642-PL-100 (3 January 2017). 1642-PL-200 Revision C (30 March 2017) and Zoning Plan (2 May 2017).

3) The use hereby permitted shall not operate outside the following hours: 0800 – 2200 Mondays – Sundays.

4) All planting, seeding or turfing shall be carried out in accordance with the timescales and specifications of the submitted Schedule of Landscaping and the plan 1642-PL-200 Revision C and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

5) Prior to the use hereby permitted takes place, a scheme of security measures shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the use hereby permitted takes place and retained thereafter.

6) No external lighting shall be installed or erected within the site other than in accordance with a scheme submitted to and approved in writing by the local planning authority. The lighting shall thereafter be installed, erected and operated in accordance with the approved details

7) Only storage containers shall be sited within the area identified as 'zone A' on the approved Zoning Plan received 2 May 2017. Any storage containers within this area shall be painted/finished bottle green equivalent to RAL 6007 and shall thereafter be retained as such.