



Appeal Decision

Site visit made on 5 June 2020

by Martin Whitehead LLB BSc(Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 12th June 2020

Appeal Ref: APP/U2805/W/19/3229134

Gate 1, Weldon Road, Corby NN17 5UE

- 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 Glenrowan Homes Ltd against the decision of Corby Borough Council.
 - The application Ref 18/00629/OUT, dated 14 September 2018, was refused by notice dated 31 December 2018.
 - The development proposed is described on the application as: '*demolition of existing building, development of up to 131 houses, 29 apartments, a shop, access roads, car parking, renewable energy area and landscaping.*'
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. The application was submitted in outline form with all matters of detail except access reserved for subsequent determination. The above description of the development proposed is given on the application but the appeal form describes it as: '*Demolition of existing building, development of up to 163 dwellings (134 houses and 29 apartments), a shop, access roads, car parking, renewable energy area and landscaping*', which is similar to that on the decision notice. Whilst there is no indication that the development proposed has changed, I have determined this appeal based on the amended description. Although layout is a reserved matter, I have referred to the site masterplan as an indication of the layout of the proposed development.
3. In the reasons for refusal, the Council has referred to the National Planning Policy Framework, July 2018 (NPPF 2018). However, since that decision it has been updated in February 2019 to include minor clarifications. I have therefore referred to the updated National Planning Policy Framework (Framework).
4. The Council has referred to policies in the Part 1 North Northamptonshire Joint Core Strategy (2011-2031) (JCS), July 2016, which forms part of the development plan. I understand that the Council has submitted the Part 2 Local Plan for Corby 2011-2031 (emerging Local Plan) to the Secretary of State for examination, but the Examination Hearings have not yet taken place. In accordance with government advice given in the Framework, I have attached significantly greater weight to the relevant policies in the JCS than those in the emerging Local Plan.

Main Issues

5. The main issues are the effect of the proposal on employment sites in the Borough; and whether it would provide acceptable living conditions for future residents of the proposed dwellings, with particular regard to matters of access to facilities, noise, odours, air pollution, ground contamination, internal space within the dwellings and layout of the development.

Reasons

6. The appeal site fronts the north side of the A427 Weldon Road, which is a dual carriageway. At my site visit I observed that the site is surrounded on 3 sides by industrial premises and on the opposite side of Weldon Road there is an electricity supply station and Anglian Water sewage treatment works. To the east along Weldon Road is Gate 2 Tata Steel Complex, which has large buildings close to the eastern boundary of the site. The nearest residential properties to the site are on the opposite side of Weldon Road, to the west near to a roundabout junction with the A6086.

Employment Sites

7. The Council has indicated that the appeal site is an existing employment site. Although the appellant has claimed that it has largely been unused for over 10 years, I observed at my site visit that most of it is in use for storage. A part of the site on the eastern boundary is being used by Total Tower Cranes for storing their plant and other areas are being used by MPB for its plant, with large parts being used for storage of construction materials or plant.
8. There are two substantial office buildings on the south part of the site, fronting Weldon Road, which are vacant. The appellant has demonstrated that these buildings and a former car park area between the buildings have benefitted from permitted development rights to be converted from B1 Office to C3 residential use, with the Council determining that the application did not require Prior Approval. However, this Prior Approval determination is dated November 2016 and I observed that the buildings have not been converted to residential use. As such, there is nothing before me to show that the permitted development rights are extant, as the development has not been completed within a period of 3 years starting with the prior approval date.
9. The appellant has claimed that the storage on the site is only temporary and, until late 2017, the two office blocks were the only parts being regularly used for employment. The Council has not provided any evidence to show what the use of the site has been over the last 10 years to demonstrate that it has had any other significant permanent employment use.
10. Policy 22 paragraph c) of the JCS seeks to ensure that existing and committed employment sites are safeguarded for employment use unless it can be demonstrated that there is no reasonable prospect of the site being used for that purpose and an alternative use would either not be detrimental to the mix of uses within a Sustainable Urban Extension and/or resolve existing conflicts between land uses. In terms of this Policy, the appellant has referred to the time that the site has been vacant. However, it has not provided details of any marketing of the site for employment uses to show that it has tried unsuccessfully to find such a use. Whilst some of the site has been approved for a residential use, the application for this approved use does not appear to

me to have been accompanied by any details of marketing of those buildings for employment uses.

11. I acknowledge that the appeal site is not allocated as an employment site in the JCS and is not identified as a committed or future employment site. In this respect, the Council's Employment Land Review, May 2018 (ELR), undertaken to provide evidence for the emerging Local Plan on what future employment sites should be allocated, does not include the appeal site within those sites to be considered. However, even if the part of the site were in residential use under the permitted development rights, a substantial area of the site would remain as an existing employment site for the purposes of Policy 22. Although the associated commercial property market appraisal by Peter Brett Associates and Aspinall Verdi indicates that there is limited demand for employment land in the Borough, the appellant has not shown that in relation to the appeal site, as no marketing details have been provided to show a lack of interest in it for employment uses.
12. The appeal site is not included in the existing established industrial estates plan in the emerging Local Plan Mapping Booklet 2018. However, land adjoining the site to the east is considered in the ELR as site ELR32. Much of this land is the Tata Steel site, accessed from Gate 2. Although Table 6.1 confirms that this site is not to be allocated in the emerging Local Plan, Tata Steel, as the owners of the site, has indicated that options for the reuse of the West Works site, which I understand forms part of this site, are at the advanced stages of consideration. This indicates to me that, even though the site has been considered to not be allocated, it could nevertheless revert to an industrial use that would not be compatible with the proposed residential use of the appeal site. This has not been contested by the appellant.
13. Furthermore, I have not been given any information to show that there are current restrictions on, or controls over, the use of the adjacent Tata Steel site for employment uses, in terms of such things as working hours and noise. Therefore, even though I did not observe at the time of my site visit any activity or hear any significant noise from these adjacent buildings, I am concerned that the future employment use of this site would be compromised by the appeal proposal due to future controls that would be necessary to place on its use to prevent harm to residential amenity.
14. The JCS in paragraph 8.8 indicates that existing employment sites also provide an important part of the employment land supply. It further indicates that proposals for alternative uses should be treated on their merits having regard to market signals and the relative need for different uses to support sustainable local communities. In this respect, paragraph 6.2.3 of the ELR states that quantitatively there is no need for additional employment sites beyond the further allocations identified. However, this is to inform the emerging Local Plan and much of the appeal site is in employment use, albeit on a temporary basis. Furthermore, it does not necessarily exclude site ELR32 from being required for employment use in the future, given that it is an existing employment site.
15. In terms of the second part of Policy 22 c), the appeal site is not within a Sustainable Urban Extension. With regard to the need to resolve existing conflicts between land uses, the site is surrounded by employment uses, some of which could result in noise and disturbance to any residents on the site.

Whilst residential development has been permitted within two blocks forming part of the site, these are located a significant distance away from the site boundaries. I cannot see how locating additional residential development closer to the boundary with industrial sites as proposed by the appeal development would resolve any existing conflicts between land uses, particularly as none have been identified.

16. In support of the proposal, the appellant has referred to paragraph 120 b) of the Framework which suggests that prior to updating the development plan, applications for alternative uses on employment land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area. In this respect, the proposed residential development would make a significant contribution to housing in the Borough.
17. The housing land supply figures provided include a December 2018 update on the five-year housing land supply that indicates the Council can demonstrate a 5.3-year supply of deliverable housing land for the period of 2019 to 2024. Therefore, it does not show a shortfall. Furthermore, the appellant has not indicated that affordable housing would be included in the development, and no planning obligation has been provided to secure such housing or contribution towards affordable housing. The Viability Report submitted by the appellant in 2018 has not been examined and I have insufficient details to determine whether the lack of S106 contributions and any affordable housing on the site are justified on grounds of viability. Therefore, the evidence before me does not demonstrate that the proposal would contribute to meeting an unmet need.
18. I conclude on this main issue that the proposal would have an adverse effect on employment sites in the Borough and would not accord with JCS Policy 22, as the appellant has failed to demonstrate that there is no reasonable prospect of the site being used for an employment purpose or that the proposed residential use would resolve any existing conflicts between land uses.

Living Conditions

19. With regard to access from the site, the accompanying Transport Statement concludes that the development would be able to provide a safe environment in respect of transport and highways. Although the appellant has stated that this matter should have been assessed in relation to determining the Prior Approval application, I have insufficient details of such an assessment to take it into account in relation to this appeal.
20. The appellant has indicated that the two former office buildings on the site would be converted to provide some 94 apartments but, as previously stated, the development does not appear to me to have commenced. The site is located on a bus route, with Weldon Road being served by a regular 15-minute bus service (the 2A, 2B and X4), and is within walking and cycling distance of shops and amenities. However, no controlled pedestrian crossing facility exists or is proposed across Weldon Road to access the bus stop facility on the opposite side. The Council has stated that bus shelters would be required on both existing bus stops on Weldon Road. This would make the use of public transport more attractive, but they have not been secured by any legal agreement and no planning condition has been suggested.

21. The appellant has proposed a new pedestrian and cycle route over adjacent land that it has indicated it controls. This would link up with Crucible Road and a pedestrian crossing facility on the A6086 that would provide access to the Peel Centre/Phoenix Park. Although this may be able to be secured by way of a Grampian planning condition, no details of the facility, the feasibility of providing it or a planning condition have been provided for me to consider. As such, there is nothing before me to ensure that the necessary pedestrian crossings and pedestrian walkways would be provided as part of the development. I am also concerned that walking routes to the nearest Primary School would mean walking along Weldon Road, which is an existing 40mph dual carriageway. Therefore, I find that the proposal would not ensure that necessary facilities would be conveniently and safely accessed on foot or bicycle, which would fail to encourage the use of sustainable means of travel.
22. The indicative plan of the proposal includes areas of open space, in particular along the west side of the site which is an old railway cutting. The appellant has stated that this existing green area would be incorporated into the development and would be able to connect into other green space on the site. The proposal shows that the frontage of the site, which has trees on it, would be retained. As such, I accept that, with additional landscape planting that could be secured by planning conditions, this would help to maintain the existing predominantly green edges to Weldon Road. However, the provision and maintenance of children's play space has not been secured on the site by any planning obligations. I am concerned that the proposal has provided insufficient controls over the specific uses of the site for open space and recreation to ensure that appropriate levels would be provided.
23. In terms of noise, the blocks approved to be converted to residential are over 100m away from the Tata Steel site, whereas the appeal dwellings are shown as close as 15m away from the boundary with that site. An accompanying Preliminary Environmental Noise Assessment includes mitigation measures and concludes that, with these measures, the noise impact is predicted to be at a 'Lowest Observed Adverse Effect'. This is based on a 4-day noise monitoring exercise from 31 August to 4 September 2018. However, the Assessment states that more noise monitoring of Tata Steel activities and other noise sources are necessary to carry out a full assessment. It acknowledges that the noise from the Tata Steel site should be monitored over several weeks at a period of normal activity and that an Acoustic Design Statement should include detailed monitoring of Tata Steel noise. I have nothing before me to show that this has been carried out.
24. Paragraph 182 of the Framework states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This requires consideration to be given to the potential noise and disturbance that could be generated. Based on the information provided and the above Preliminary Environmental Noise Assessment, the appellant has not shown that it has considered all the potential sources of noise, including that from the Tata Steel site.
25. Tata Steel's noise consultant, Hepworth Acoustics, undertook an exercise to consider the potential operations that could reasonably be undertaken in the 'West Works' and identified extremely high levels of noise and that this would

require 24-hour operation. The consultant's report concludes that there is a risk that the proposed housing would result in restrictions being placed on the future operations of Tata Steel in respect of the potential use of the western area of its site, contrary to paragraph 182 of the Framework. This is because the potential noise levels have been shown to be sufficiently above the prevailing background noise to cause a harmful environment for future occupants of the proposed development, even with the recommended mitigation.

26. The appellant has argued that, with a combination of acoustic barrier, room orientation, acoustic glazing and ventilation, acceptable noise levels would be able to be achieved to all future dwellings, based on its Preliminary Noise Assessment. However, I find that insufficient information has been provided by the appellant relating to the existing and predicted future noise environment to confirm that the proposal would be an appropriate use of the land, given the details provided by Tata Steel.
27. With regards to odour, the site is near to Viridor waste disposal site and is opposite a sewage treatment works. An Odour Assessment that accompanied the application makes specific reference to the Anglian Water sewage treatment works. It finds that odours are likely to be detectable across the south-eastern section of the site, at frequencies, durations and intensities high enough to result in annoyance. The indicative plan shows that no residential development is proposed on this part of the site.
28. The Assessment concludes that the significance of odour effects at the site, without mitigation, cannot be discounted, based upon the 1.5 OU_E/m³ contour, which it considers to be the most stringent criterion but that which was specifically requested by Anglian Water. Although the appellant has stated that further mitigation is proposed using air filters, I have insufficient details to show how effective these measures would be in addressing any potential odour problems and I do not have any details of a suggested planning condition to secure these measures. Therefore, based on the Anglian Water requirements, I am concerned that the odours from nearby sites would have an unacceptable effect on the living conditions of future residents of the proposed development.
29. In terms of contamination, an accompanying detailed Site Investigation Report has concluded that, with appropriate remediation, ground conditions would be suitable for residential use. I am satisfied that these measures would be able to be secured by an appropriate planning condition similar to that suggested by the Council should permission be granted and this would ensure that any contamination would be suitably dealt with so as to prevent an unacceptable risk to health and safety.
30. In relation to air pollution, an Air Quality Assessment of the site that accompanied the application has taken account of mitigation measures within the design and those recommended in relation to construction and operational effects due to traffic. Based on this, it concludes that the overall operational air quality effects of the development are judged to be 'not significant' and that air quality conditions for future residents of the development itself would be acceptable.
31. The Assessment states that the development would include a large area for solar panels, as well as electric vehicle charging and new, dedicated cycle and pedestrian routes, which would help to offset the impacts on local air quality

arising from the additional road traffic. However, I am uncertain as to whether the conclusions of the Assessment are based on these measures being carried out or not and I have not been given any suggested conditions or planning obligations to ensure that they would be provided. Whilst I accept that there are standard planning conditions capable of securing some of the measures, there would be insufficient guarantees in place to ensure that all the measures would be provided in order to offset the adverse effect on local air quality.

32. The appellant has suggested that internal space standards and room sizes would be dealt with at the reserved matters stage and by appropriate planning conditions. The appellant has also indicated that the illustrative material demonstrates that there would be sufficient space on site to accommodate the proposed use, including the necessary parking and children's play area. However, the Council has demonstrated that the proposal would be deficient in some internal space provision and room sizes, based on the technical housing standards. Given the other constraints on the use of the site and that the appellant has not provided details to demonstrate that these standards would be capable of being met, I conclude that the proposal would provide substandard accommodation which would fail to provide acceptable living conditions for future residents of the development.
33. For the reasons given above, I conclude on this main issue that the living conditions for future residents of the proposed dwellings would be unacceptable. The proposal would also fail to accord with JCS Policy 15, as it has not been shown that it would improve local integration by providing well-connected street networks and extending the existing green infrastructure network into the development; JCS Policy 8, as it would fail to adequately protect the amenities of future occupiers against unacceptable levels of noise, smell and other pollution; and Policy 30, as the appellant has failed to demonstrate that internal floor areas of the proposed dwellings would be capable of meeting the Nationally Described Space Standards as a minimum.

Other Matters

34. Northamptonshire County Council has indicated that the demand for education places from future residents of the proposed development would not be met by the local schools, which have been shown to be at or near capacity. As such, the proposal would need to make provision to address this need. There is no S106 planning obligation to secure the required contributions towards schools. Without any provisions being secured by an appropriate planning obligation, the development would be likely to have an adverse impact on education facilities in the area.

Overall Conclusions

35. I have found that the proposal would not accord with the development plan as a whole, and no other material considerations have been given to outweigh this conflict with development plan policy. Therefore, for the reasons given and having regard to all relevant matters raised, I conclude that the appeal should fail.

M J Whitehead

INSPECTOR