



Appeal Decision

Site visit made on 14 September 2020

by S Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 12 October 2020

Appeal Ref: APP/U2805/W/20/3247395

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 Mr M Boyle of Glenrowan Homes against the decision of Corby Borough Council.
 - The application Ref 19/00300/OUT, dated 18 June 2019, was refused by notice dated 5 September 2019.
 - The development proposed is Demolition of existing building, residential development of up to 90 homes, retail units, play area and football pitch, and associated site infrastructure including roads and car parks (all matters other than access are reserved).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline form with all matters of detail reserved for subsequent determination except for access. Layout is a reserved matter, but I have referred to the submitted Parameters Plan as an indication of how the proposed land uses could be arranged within the appeal site.
3. In their reasons for refusal the Council has referred to policies in the Part 1 North Northamptonshire Joint Core Strategy (JCS) (2016), which forms part of the development plan. The appellant has referred to a mapping booklet for the emerging Part 2 Local Plan for Corby. However, the Council has not provided any copies of relevant emerging policies nor information relating to the current status of the plan. I therefore only refer to the adopted policies of the JCS.

Main Issues

4. Having regard to the reasons for refusal the main issues are:
 - The effect of the proposed development on employment land in the Borough;
 - The accessibility of the proposed development by non-motorised users; and
 - Whether acceptable living conditions for future occupants of the proposed dwellings could be provided, with particular regard to matters of noise, odour, air quality, ground conditions, internal space standards and layout.

Reasons

5. The appeal site is situated alongside the A427 Weldon Road dual carriageway, within a predominately industrial area. The site is immediately adjacent to the substantial Tata Steel (UK) Limited (Tata Steel) complex. Opposite the site lies an electricity substation and Anglian Water sewage treatment works. The nearest dwellings are situated towards the roundabout junction with the A6086.
6. My attention has been drawn to a previously dismissed appeal decision¹ (June 2020 decision) relating to the same site and appellant, issued since the submission of this appeal. The previous appeal proposals included a larger overall number of dwellings and slightly different mix of development. Given the similarities between the proposals and the timeframe involved, the previous decision holds significant weight in my consideration of this appeal.

Employment Land

7. There is little evidence before me to confirm the lawful use of the site. The appellant claims that the bulk of the site has been vacant and unused for over 10 years, apart from an area used for a crane storage business controlled by the appellant. However I observed on my site visit that the vast majority of the site is currently in active use for open storage of infrastructure construction materials and plant, and there were a range of activities being carried out associated with transit of the plant and materials. Whilst the use may be temporary, I note that the site was in the same use at the time of my colleague's recent visit in June, and in view of the type and scale of the storage it would appear to be a significant business operation. It is surrounded by employment uses, and bears the characteristics typical of an employment site, which would suggest that any future industrial uses would find the site attractive.
8. JCS Policy 22 part (c) 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. There is no specific identification of the appeal site as an employment allocation in the JCS, and in the 2018 Employment Land Review 2018 (ELR). Nonetheless, given its current characteristics and surrounding large employment uses, I am satisfied that the appeal site is to all intents and purposes an employment site and that Policy 22 should apply to it.
9. Supporting text paragraph 8.8 indicates that existing employment sites 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. The ELR provides an overview of the commercial property market in the Borough, and at paragraph 6.2.3 it states that quantitatively there is no need for additional employment sites beyond the further allocations identified. However, this does not automatically mean that the appeal site should be put to alternative use. Indeed, the primary purpose of the ELR is to provide an evidence base to inform future employment allocations for the emerging Local Plan. In any event, no marketing information or evidence of any specific lack of demand for the appeal site for employment uses has been

¹ APP/U2805/W/19/3229134

supplied to demonstrate that there is no reasonable prospect of the site being put to employment use, contrary to Policy 22(c).

10. Both the Council and Tata Steel have put to me that future employment use of currently unused buildings adjoining the site to the east (ELR32) would be compromised by the proposals. Notwithstanding that the ELR does not recommend the allocation of ELR32, Tata Steel have indicated that they require the flexibility of bringing the 'West Works' building back into use (including for milling or slitting of steel) at some time in the future. Consequently there is potential for the adjacent employment site being put back to heavy industrial use, operating any time of day or night. As such any future residential use has the potential to dissuade future investment in and legitimate industrial use of the Tata Steel works. This would also apply to other neighbouring employment land.
11. On the evidence before me, I am not satisfied that any of the substantial concerns identified in the previous June 2020 appeal decision have been overcome in the current submission. The appellant has, I find, failed to adequately demonstrate that there is no reasonable prospect of the site being used for employment purposes, and that it would not comprise future employment use of site ELR32 and thereby have an adverse effect on employment land in the Borough. The proposed development therefore fails to comply with JCS Policy 22.

Accessibility

12. Policy 8 of the JCS requires development to provide direct routes to local facilities to create more walkable neighbourhoods, and make safe and pleasant streets and spaces. Policy 15 seeks, amongst other things, to strengthen connectivity, by creating safe, direct and convenient crossing points on major roads which present a barrier to movement.
13. The site is located within the built up area of Corby and I observed there to be a range of shops and services within reasonable walking and cycling distance as well as a regular bus service on Weldon Road. Notwithstanding these locational benefits, the routes cross industrial land and busy roads which are likely to present significant obstacles for pedestrian and cycle traffic, and as such would be unattractive to non-motorised users. I note that a number of potential pedestrian crossings are suggested both by both the Highway Authority and the appellant. It is conceivable that such crossings would aid in providing safer and more convenient access to bus services, schools, shops and other services, improving overall connectivity across the dual carriageways of Weldon Road and the A6086 Phoenix Parkway/Lloyds Road. However, there are no such details before me to demonstrate that they would be feasible.
14. I am equally dissatisfied with the suggested pedestrian/cycle link to the rear of the site. This would be located adjacent to a large electricity pylon, and it is unclear where and how pedestrians would enter and exit the site safely here. Crucible Road has footways which are well lit, but there are industrial and distribution uses adjacent to the site boundary and I observed a number of heavy goods vehicles manoeuvring around the potential pedestrian access. This is likely to result in conflict and safety issues. Furthermore, the A6086 Phoenix Parkway lacks a footway on the opposite side of Crucible Road and, without details, I am unable to envisage where a proposed pedestrian crossing could be safely located. Moreover, whilst the suggested new footpath along the frontage

of the site and a potential green space alongside the former railway cutting would improve the environment around the site itself, such proposals would not adequately overcome my concerns relating to the safety of pedestrians.

15. I have considered whether the suggested works which lie within the public highway could be secured by a planning condition. However, such works are of critical importance to the acceptability of the appeal scheme in this manner and little evidence is before me that such works would be acceptable in planning or highway terms. But even if they were, neither main party has advanced suggested wording that I could use that would satisfactorily ensure that the appropriate works were carried out. Additionally, there is no Section 106 Agreement (S106) before me to secure the funding of bus shelters and improvements to bus services as requested by the Highway Authority, which would assist in making use of public transport an attractive option.
16. To conclude on this main issue, I find that the appeal site is not in a convenient, safe or pleasant location for pedestrians and cyclists, and would not encourage the use of non-motorised means of travel. As such the proposed development is contrary to Policies 8 and 15 of the JCS as it has not been shown that the proposals would improve local integration by providing well connected street networks. In turn, the proposals would also conflict with paragraphs 91 and 108 of the National Planning Policy Framework (the Framework).

Living Conditions

17. Policy 8 of the JCS, amongst other criterion, requires development to have an acceptable impact on the amenities of future occupiers in terms of noise, vibration, smell, light and other pollution, and seeks to prevent new development from being adversely affected by unacceptable levels of soil, air, light, water or noise pollution or land instability. The location of the site is within an industrial area and surrounded by non-residential uses. These include a large steel works, sawmill, sewage treatment works, and waste disposal site which give rise to the potential for adverse effects on living conditions of future occupants of the proposed dwellings.
18. A number of documents have been submitted by the appellant in support of the proposals including a noise assessment report, an odour assessment, air quality assessment and ground conditions report. However the majority of the submitted documents refer to the previous proposals, and I note that my colleague in dismissing the appeal in June 2020 found this evidence to be insufficient.
19. Turning first to potential noise effects, there are no restrictions on the use of the adjacent Tata Steel site for 24-hour working and heavy industrial use. Little evidence is also before me which would suggest that other nearby businesses don't equally have any restrictions on their hours of operation given their location in an industrial area, and I note from BOC's representation that they have regular late night and early morning deliveries of gas canisters.
20. The appellant's noise assessment report contains additional information which in part addresses concerns raised in the previously dismissed proposals. However the Council's Environmental Health Officer (EHO) and neighbouring businesses Tata Steel and BOC continue to raise significant doubt over the findings of the appellant's noise assessment and the suitability of the site for

residential development. I share Tata Steel's concerns that the appellant has not adequately accounted for the future potential for noise arising from the immediately adjacent 'West Works' and its current screening properties from the main body of the steel works site. There is significant potential for adverse impacts on the living conditions of future residents resulting from the operations of nearby businesses, which have raised justified concerns backed up by technical evidence.

21. The appellant's Parameters Plan indicates proposed tree planting and a sports pitch to the boundary with Tata Steel, and some acoustic measures are suggested together with future consideration of the layout of dwellings. However, the evidence lacks anything in the way of detail. Whilst this is an outline application with matters such as design and layout reserved, I find this is a critical matter to determine the acceptability of the scheme and as such, I am not persuaded that a condition would suffice in the absence of more specific recommendations for such mitigation. It would be unsatisfactory to leave such matters to a detailed reserved matters application.
22. I acknowledge that an existing crane generator is another source of noise which would have affected the noise survey. The crane business lies within the area labelled 'future development site' on the Parameters Plan. However, the appellant's plans for this area when development of the housing commences are unclear. Whilst it is submitted that they have full control of the site, there are no controls before me which persuade me that the removal of the generator and other crane operations could be secured prior to commencement development. If it remains on the site, the crane business has the potential, in my judgement, to raise significant harm to the living conditions of future occupiers of the proposed dwellings.
23. I note the presence of existing nearby residential properties. These are incomparable given the presence of the intervening Weldon Road and the distances involved. I am also directed towards two planning applications for minor housing developments in the vicinity where no objections were raised by the Council in relation to noise. However I note those dwellings are located adjacent to existing residential development and further away from heavy industries. In any event, I am dealing with this appeal on its own merits.
24. The appellant's Odour Assessment specifically assesses the odour effects of the sewage treatment works on the opposite side of Weldon Road. I note that Anglian Water have not specifically objected to the proposals on odour grounds and the Council have not backed up their EHO concerns regarding the methodology of the Assessment. Notwithstanding this, I note that the appellant's Assessment concludes 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 Parameters Plan indicates a sports pitch in this particular area of the site. Whilst the location of the sports pitch and tree planting would assist in providing a buffer from odour, there is insufficient detail relating to further mitigation (such as air filters) and no evidence before me to suggest how effective such measures would be in reducing the adverse effects on living conditions of future residents.
25. The Council also cite the Viridor waste disposal site as an odorous environment however the Assessment does not refer to the Viridor site and nor does the appellant mention this potential source of odour in their statement. Given the

lack of information relating to the Viridor site I am unable to make any conclusions in this respect.

26. Turning to air quality, the Council's case includes reference to emissions associated with UK Timber sawmill which is located to the west of the appeal site beyond the former railway cutting. The Council has not sufficiently explained its reasoning as to the harm which might arise from the timber sawmill. Nonetheless, given the type of activities likely to be undertaken at a timber sawmill, it is my judgement that adverse effects on future residents could be attributed to noise and dust. Neither party has adequately assessed this particular issue.
27. The Air Quality Assessment (July 2018) (AQA) primarily relates to dust, emissions and pollutants arising from the construction works on the appeal site and from operational traffic. I am satisfied that such effects and the proposed mitigation as set out in paragraph 7.3 of the Assessment could be appropriately conditioned. The claim in the AQA paragraph 9.7 that air quality conditions for future residents of the development will be acceptable is unsubstantiated in the evidence before me.
28. On the evidence before me, I am satisfied that matters concerning land contamination and ground conditions could be dealt with by way of appropriately worded planning conditions so as to prevent any unacceptable risks in this regard. Likewise, the reserved matters stage would be the appropriate place to deal with space standards and layout in respect of reasons for refusal 4 and 5. I make no further judgement on those matters here.
29. Whilst matters of ground conditions, internal space standards and layout can be adequately dealt with at either reserved matters stage or through appropriately worded conditions, I nevertheless find that it has not been adequately demonstrated that living conditions for future residents of the proposed dwellings would be acceptable with regard to matters of noise, odour and air quality. Consequently the proposed development would be contrary to JCS Policy 8 part e) i and ii by failing to adequately protect amenity. In turn the proposals would also fail to accord with paragraphs 127 f) and 180 of the Framework which seeks to create places with a high standard of amenity for existing and future users, and to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions.

Other Matters

30. Conversion of the existing office buildings to residential use has not taken place within the requisite timeframe set out in prior approval application reference 16/00426/PAC3. As such this application holds little weight in this appeal. This includes the appellants arguments that noise should have been considered as part of that application. Should a new prior approval application be made, it would be considered by the Council on its own merits.
31. The appellant questions whether the Council can demonstrate a five-year housing land supply, drawing my attention to an appeal decision² issued in August 2019 where an Inspector found a 4.6 to 4.8-year supply to exist. However, that decision predates the Council's more recent Five Year Housing

² APP/U2805/W/18/3218880 - Southfield Road, Gretton

Land Supply Statement (November 2019) which asserts an adequate supply, and I see no reason to cast doubt on that, or to engage paragraph 11(d) of the Framework in my decision. However, even if were to do so, it would make little difference to the outcome of this decision.

32. The Council requires a scheme for affordable housing and developer contributions towards school and nursery places, bus services, libraries, and fire hydrants. The appellant has not refuted the need for the required contributions yet no viability report has been provided, nor is any legal document before me which would properly secure affordable housing and other obligations. The absence of such an agreement further weighs against the proposals.
33. The Council submitted their evidence well past the requisite deadline and did not include all the information required by the questionnaire nor a list of suggested conditions. No response has been provided to the appellant's evidence nor with regard to the lengthy representations from neighbouring businesses on technical matters. Notwithstanding this disappointing lack of co-operation by the Council I have made a balanced and reasoned decision based on the evidence before me.

Conclusion

34. I acknowledge the benefits of redevelopment of the site for residential use including those raised by supporters of the scheme. These include use of previously developed land, an increased supply of housing at potentially more affordable prices, provision of open space and a sports pitch, an increase in biodiversity, provision of a local shop and a potential improvement in appearance of the land. Nonetheless, overall I concur with the June 2020 decision because the majority of issues previously raised have not been adequately addressed in this re-submission. I am unconvinced that there is no reasonable prospect of an application coming forward for permanent employment use of the appeal site, nor that the use of the employment land for residential dwellings would not undermine the future operations of nearby businesses. There is a lack of evidence to persuade me that the site can be made suitably safe and accessible for non-motorised users, nor has it been demonstrated that the living conditions future occupants would be acceptable in terms of noise, odour and air quality.
35. Therefore, having considered all matters raised, I conclude that the appeal is dismissed.

Susan Hunt

INSPECTOR