



Appeal Decision

Site Visit made on 13 May 2021

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2021

Appeal Ref: APP/G2815/W/21/3269913

West End, Land North of Brick Kiln Road, Raunds NN9 6EQ

- 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 Aequitas Estates (Raunds) Limited against the decision of East Northamptonshire Council.
 - The application Ref 20/00960/FUL, dated 31 July 2020, was refused by notice dated 20 January 2021.
 - The development proposed is the erection of 4 employment units (Use Class B1(c)/B2/B8) with ancillary offices, including new vehicular and pedestrian access, HGV and car parking, internal access roads, servicing, external lighting, landscaping, infrastructure and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 employment units (Use Class B1(c)/B2/B8) with ancillary offices, including new vehicular and pedestrian access, HGV and car parking, internal access roads, servicing, external lighting, landscaping, infrastructure and associated works at West End, Land North of Brick Kiln Road, Raunds NN9 6EQ in accordance with the terms of the application, Ref 20/00960/FUL, dated 31 July 2020, subject to the conditions in the Conditions Schedule below.

Main Issues

2. The main issues in this case are
 - a) the principle of industrial units on land not allocated for employment purposes;
 - b) the effect of the development on the character and appearance of the locality and views of the town;
 - c) the impact on the living conditions of adjacent residents by reason of noise and overdominance;
 - d) the effect on highway safety and
 - e) whether contributions to address air quality are justified.

Reasons

The principle of industrial units

3. The appeal site is an area of former agricultural land that lies on the northern edge of Raunds between the A45 and the modern housing development

referred to as Border Park. Fields are to the east while a hot food drive-thru and a petrol station are to the west.

4. The proposal comprises 2 larger units to the east side of a central drainage feature and 2 smaller ones to the west. Under Policy R13 in the *Raunds Neighbourhood Plan* (RNP) the part of the site on which the 2 larger units are to be built is allocated as being protected for employment use (I will call this part of the site the protected area). The policy confirms that office, business (B1), general industrial (B2) and warehousing (B8) will be encouraged in the protected areas, but it says planning approval for uses outside of those stated will only be permitted in specified instances. However, as only uses in the identified classes are proposed I see no conflict with this policy.
5. The 2 smaller units to the west of the central water feature (the western portion) are on land that lies outside of the protected area and is not allocated for employment purposes or indeed any other use.
6. RNP Policy R14 appears to address new employment development outside of areas protected for employment use, saying uses in Classes B1, B2 and B8 will be encouraged if there is compliance with a number of criteria. When taken along with RNP Policy R13, its purpose appears to be to increase access to employment opportunities locally amongst other things.
7. The western portion does not comply with any of the stated criteria in RNP Policy R14. However, it is not a particularly large area and is hemmed in by the A45 to the north, a small undeveloped area with the drive-thru beyond to the west, the town's football ground to the south and, to the east, the protected area. Consequently, the opportunities for it to be used in any meaningful way for agriculture or any other purpose are limited. Incorporating it into this site has the further potential benefit of allowing a vehicular access to the allocated area without commercial traffic having to pass through the adjacent housing estate. Moreover, whilst this may not be a site where employment uses '*will be encouraged*' under RNP Policy 14, that policy does not expressly preclude such development elsewhere, and I understand it is within the boundary of the town.
8. Therefore, although RNP Policy R14 does not explicitly encourage or support employment development on the western portion, I see no conflict with that policy in developing that area in the proposed manner. Moreover, even if there was a conflict, the constrained nature of that part of the appeal site between the protected employment site and the hot food drive-thru is a material consideration that indicates this development plan conflict would not, of itself, justify a reason not to grant planning permission.
9. The *North Northamptonshire Joint Core Strategy* (JCS) Policy 24(a) advocates a proportion of floorspace in larger logistics schemes is to be for smaller employment units. The extent of this proportion is not defined. Moreover, it does not require a wide range of smaller employment units to be sought, but rather the supporting text states there should be units of under 9,300sqm. In this case 3 of the 4 units, which together amount to over half of the proposed floorspace, are under that size. As such, I see no conflict with this policy.
10. There is little to show there is a specific need for this employment development in the immediate area, but the allocation of the site and the support for industrial uses in local policy mean that is not a reason to resist the scheme.

11. Accordingly, whilst the development of the western portion of the site would not be explicitly encouraged by RNP Policy R14, I conclude that the principle of the scheme would not conflict with the development plan.

The effect on the character and appearance of the area

12. The larger eastern units would be 14.55m and 14.65m in height while the 2 to the west would be 10m and 12.25m tall. As a result, although sizeable, they would not be unreasonably so for premises of this nature.
13. Whilst the Council has said that important views of the town of Raunds would be affected, I am unclear where those views are or why they are important. However, in making any such assessment of the visual impact, to my mind a starting point has to be that employment uses are encouraged in the development plan on the protected area and so the presence of some industrial units there is accepted. Moreover, given the wording of RNP Policy R13, and in the absence of any evidence to the contrary, there is no particular reason to assume they should be especially low units. For this form of development, the units would be of acceptable designs with their prominence being reduced by the sensitive use of colours, whilst the effect of the A45 in constraining the site means the development will not appear to encroach out into the countryside.
14. Turning to the various possible viewpoints, from the A45 the extensive planting that is now present already restricts views southwards from that road, and would serve to soften any visual impact arising from the buildings.
15. Viewpoint 12 on the appellant's *Landscape and Visual Impact Assessment* lies to the north on the road to Ringstead and currently offers a view of the Border Park houses to one side and the industrial units on Warth Park to the other. In such a context and mindful of the allocation, I consider the proposal would not be unduly dominant or discordant and would not obstruct any important views.
16. Further to the north are Viewpoints 15 and 16. From here though the site is distant with an awareness of the quarry in the foreground and again the Warth Park estate to the west. Therefore once more I find the impact of the development would not be harmful.
17. From the east (Viewpoints 8, 9 and 10) the units would be more apparent, but employment development is encouraged on this eastern end and so, given this, what is proposed would not be intrusive or discordant in these views.
18. The western portion is a narrow strip behind planting along the A45, that is bounded by Unit 300 on the protected area on one side and a strip of unallocated land, the drive-thru and the garage to the other. Consequently, its contribution in isolation to the wider landscape setting of the town is limited. In such a context, even accounting for its unallocated nature the 2 smaller industrial units would not be discordant or incongruous.
19. Accordingly, I conclude that the development would not adversely affect the character or appearance of the area or important views of the town, but rather would respond appropriately to its context with a high standard of design. As such, it would not conflict with JCS Policy 8(d)(i), which requires development to respond to its immediate and wider context, or JCS Policy 24(d), which requires employment uses to be of the highest possible standard of design.

Living conditions

20. The houses on Border Park are separated from the protected area of the appeal site by landscaping that appears to have a drainage role, as well as a play space at the eastern end. When housing here was initially approved in 2012 it was intended the protected area would be developed for employment purposes. I anticipate that for this reason the houses closest to the appeal site have side gables facing the proposal, so as to minimise any effect on outlook and no doubt reduce the impact of noise. Houses at the eastern end look towards the site, but with the play area in between.
21. In terms of the effect of the units on outlook, given their heights and their layout Units 300 and 400 would offer a sizeable elevation to the housing estate. However, some form of development of this nature is supported through the employment allocation in the RNP. Moreover, the units would be an appreciable distance from the houses and the site boundary, behind a landscaped bund, the access road and some parking, while their combined visual impact would be mitigated, to a certain degree, by Unit 400 being set further back than Unit 300 creating a substantial break in their combined elevation. The closest houses to these units would be side-on with secondary windows only looking towards them, whilst those that face them at the eastern end are set a greater distance from the scheme with the play area in between. Consequently, while they could no doubt be seen from those houses, I consider that Units 300 and 400 would not prove visually overbearing.
22. Unit 100 would be away from housing and so would not prove harmful in this regard. Unit 200 would be in front of houses on Holdenby Drive, which currently look across a pond feature to the unallocated portion. It would be the smallest, lowest unit though with its shorter side elevation facing those properties. It would also be softened by landscaping, and again would be some distance away. As such, I consider that neither the building nor its surrounding parking would be overbearing.
23. The allocation of the site means that the noise associated with traffic and commercial activity (including general industry) has been accepted to some extent.
24. Although the proposal is intended to be a 24-hour operation, various measures have been introduced to address noise. A noise attenuation mound is proposed along the southern boundary to Border Park, whilst a 3m noise attenuation fence is to be next to this. The layout is also intended to reduce noise from the service bays and from loading/unloading, as the service yards to Units 100 and 400 are on the northern sides of the buildings, whilst the service yard to Unit 300 is concealed from the houses by a 2-storey wing of offices. I am aware too that the arrangement of the adjacent Border Park housing, with their gables generally facing the scheme, should further reduce noise issues.
25. These measures could be secured by conditions agreeing the details of the noise barriers, a noise management plan, a traffic management plan, the construction of the bund and a requirement that noise levels do not exceed World Health Organisation guidelines. With these controls, mindful of the proposed layout of the development, the allocation of part of the site and the arrangement of the existing houses, and in the absence of any persuasive evidence to the contrary, the scheme would not cause unreasonable harm to the living conditions of neighbouring residents because of noise.

26. Concerning other aspects of the residents' living conditions, the distances involved, the heights of any proposed windows and the intervening mounding, mean the scheme would not harm privacy in Border Park. There are also no grounds to consider that the pedestrian link to Holdenby Drive would cause a nuisance to residents, while lighting could be controlled by condition.
27. Accordingly, the development would not detract unacceptably from the living condition of neighbours and so would not conflict with JCS Policies 8(e)(ii) and 24(e), or Policy R14(c) of the RNP, all of which seek to ensure development does not adversely affect living conditions of the community around.

Highway safety

28. The Council considered larger vehicles would be unable to turn round if they go to the eastern end of the site by mistake. However, a turning area is to be on the final bend adjacent to the eastern boundary, and, based on the radii submitted I consider that would be sufficient to allow HGVs to enter and leave in forward gear.
29. The agreement of the Department for Transport (DfT) is required to allow the road that runs from the roundabout on the A45, which serves the roadside facilities of the garage and drive-thru, to be used to access this industrial development, as it would constitute a departure from the advice in paragraph B24 of Annexe B of DfT Circular 02/2013. This agreement has not been given in relation to this specific proposal. In December 2020 Highways England said the on-going discussions involving DfT meant the scheme should not be granted for a period of 3 months from that date. Since then, I have not been told it has been decided either to grant or to withhold an agreement and no further request to delay the determination of the appeal has been made.
30. Through Highways England the DfT has already agreed to such a departure on a previous similar scheme on this site in 2018, subject to the imposition of a condition on any planning permission that may have been granted. I am aware of no material change in circumstance since then, and the terms of the condition previously recommended could be addressed by conditions imposed in this decision. Moreover, in January 2021 although Highways England reiterated the unresolved nature of the situation, it confirmed to the local planning authority that it did not wish the issue to be an additional reason for refusal. As a result, in the absence of an outstanding objection from DfT, I consider the use of the road to the roundabout is not a basis to resist the scheme, although a negatively worded condition is required to ensure alterations to the roundabout are undertaken.
31. With these minor alterations to the roundabout, I have no reason to consider the development would compromise the safe free-flow of traffic at that junction or on the wider road network.
32. There would be pedestrian access from the site to Holdenby Drive, to support access to services and public transport links. There is no substantive evidence though to show this would lead to excessive or problematic parking on that residential road.
33. Accordingly, I conclude that the development would not adversely affect highway safety, and so in this respect it would not conflict with JCS Policies

8(b)(ii) and 24(f), or RNP Policy R14(e), all of which seek to protect highway safety and mitigate highway infrastructure impacts.

Air Quality

34. The *East Midlands Air Quality Network Air Quality and Emissions Mitigation* guidance requires an assessment of the monetisation of the impacts arising from emission changes resulting from a development of this nature. Consequently, an Air Quality Damage Calculation has been undertaken and that found the monetary estimates range from just under £28,000 to a little over £600,000.
35. However, an air quality assessment by the appellant found that whilst what is before me would have an impact there would be a negligible effect on air quality with no additional mitigation necessary beyond the few measures proposed. I have no reason to disagree with this evidence, considering conditions can be imposed to secure pedestrian links through to the town and public transport, the provision of landscaping and the maintenance of cycle parking and electric charging points. Moreover, mindful of the allocation there are no firm grounds to consider those living adjacent, those using the play area or those attending the town's football club would experience unacceptable levels of pollution. Indeed, even if the money was made available, no measures have been outlined as to how it would be spent.
36. Therefore, I have no basis to find the need for a payment to address air quality would accord with the tests in Regulation 122(2) of the *Community Infrastructure Levy Regulations 2010*. As such, the absence of this contribution does not offer a basis to refuse the scheme. Accordingly, I conclude the scheme would not unacceptably harm air quality, and so would not conflict with JCS Policies 8(e)(ii) or 24(d) & (e), which together seek to protect air quality.

Other Matters

37. On the evidence before me it has not been shown the development would exacerbate flooding in the vicinity, especially as a condition could be imposed to ensure the agreement of a suitable drainage strategy. Although as a large open area on the edge of the countryside the site is no doubt used by wildlife, with the imposition of various conditions relating to planting and protective measures, an adverse impact in this regard should not be unacceptable. I have no reason to find the safety of children on the play area would be harmed or that crime and fire risk would be increased.

Conditions

38. I have considered the Council's suggested conditions, and I note that a number of them include lists of what the details to be approved should contain. Even though the items cited may be appropriate, where I have seen fit to impose conditions addressing those matters I have tended to omit such lists so as to give more flexibility to the parties as to what needs to be addressed at the time the condition is discharged.
39. The scheme should be in accordance with the approved plans for the avoidance of any doubt and to define the permission. Having regard to the appearance of the development details should be approved of slab levels, external materials and structural landscaping, while lighting should be in accordance with the approved scheme (which would also address the effect of lighting on

- neighbours' living conditions). However, a 10-year period for replacement planting would be sufficient and reasonable to allow it to become established.
40. Having regard to highway safety, off-site road works, and its on-site access roads, parking and visibility splays should all be approved (if not already established) and provided, with the off-site works being provided before the development is otherwise commenced.
 41. In order to protect the living conditions of adjacent residents details of the acoustic fencing and mounding should be approved and installed, and the noise from plant and individual events (in line with World Health Organisation guidance) should be controlled. Controls should also be in place to prevent vehicles parking of the access road, and there could be a Noise Management Plan to tackle more specific issues.
 42. Drainage details and their management should be agreed and provided to ensure the site is suitably drained. Given this, I see no reason to require a verification report to be submitted, or the adoption proposals for every element to be specifically considered.
 43. To avoid unacceptable disruption during the construction period works should be in accordance with an approved Construction Management Plan, which could also include details of on-site burning, dust mitigation and working hours. Archaeological work is also justified given the potential history of the site.
 44. To ensure sustainability benefits cycle storage, electric vehicle charging points and travel plans should be delivered. To secure ecological improvements a Construction Environmental Management Plan and a Landscape and Ecological Management Plan should be secured, though I am not satisfied of the need to demonstrate a licence has been issued by Natural England. Ecological improvements would also be a justification for the landscaping conditions referred to above.
 45. Crime prevention and the agreement of fire hydrants can, on occasions, be secured by condition. However, in this instance and having regard to the evidence before me, I am not satisfied that such controls are necessary. Moreover, given the conditions discussed above, I see no reason for the further condition suggested by the DfT in 2018. A condition was suggested stating that the 2 smaller units should be commenced prior to the occupation of the 2 larger ones. As the site's access, manoeuvring and parking arrangement is to be provided before any unit is occupied I see no reason for such a control. There was also a suggested restriction of no more than 80% of the floor area to uses within Class B8, but the need for such an approach has not been sufficiently justified.
 46. The conditions relating to slab levels, archaeology, acoustic mounding and noise barriers require agreement before the commencement of development because their satisfactory delivery could be prejudiced if resolved later. The conditions concerning the Construction Environmental Management Plan, the Landscape and Ecological Management Plan and the Construction Management Plan require agreement before the commencement of development because they affect how the development is undertaken from the outset. The off-site highway works require completion before the development is otherwise commenced to ensure the roundabout is of the required design.

Conclusion

47. Accordingly, I conclude that the appeal should be allowed.

JP Sargent

INSPECTOR

Conditions Schedule

General

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise agreed under the conditions below, the development hereby permitted shall be carried out in accordance with the following plans and drawings:

(Drawing numbers 19089) P0001 Revision B; P0002 Revision B;
P0003 Revision E; P0004 Revision C; P0005 Revision E;
P0006 Revision C; P0007 Revision C; P0008 Revision B;
P0010 Revision B; P0100 Revision B; P0101 Revision B;
P0102 Revision C; P0103 Revision B; P0104 Revision B;
P0200 Revision B; P0201 Revision B; P0202 Revision C;
P0203 Revision B; P0204 Revision B; P0300 Revision B;
P0301 Revision B; P0302 Revision C; P0303 Revision B;
P0304 Revision B; P0400 Revision B; P0401 Revision B;
P0402 Revision C; P0403 Revision B; P0404 Revision B;

CPW-191177-E-EXT-00-01-P1; CPW-191177-E-EXT-00-02-P1;

WER-LE-GEN-XX-DR-CE-103 PLANNING (S5) Revision B; WER-LE-GEN-XX-DR-CE-101 PLANNING (S5) Revision D

Character and appearance

- 3) Prior to the commencement of development details shall be submitted to and approved in writing by the local planning authority of the existing ground levels and the proposed finished slab levels in relation to an existing datum point, and the development shall then be undertaken in accordance with those approved slab levels.
- 4) No development above slab level shall take place until details have been submitted to and approved in writing by the local planning authority of the external finishes (including colours) of the buildings hereby approved, and the development shall then be undertaken in accordance with those approved finishes.
- 5) Any external lighting shall be in accordance with the External Lighting Scheme prepared by CPW (CPW-191177-E-EXT-00-01-P1 and CPW-191177-E-EXT-00-02- P1, June 2020).

Landscape and ecology

- 6) Prior to the commencement of development details shall be submitted to and approved in writing by the local planning authority of a Construction Environmental Management Plan and the development shall then be undertaken in accordance with that plan.
- 7) Prior to the commencement of development details shall be submitted to and approved in writing by the local planning authority of a Landscape and Ecological Management Plan and the development shall then be undertaken in accordance with that plan.
- 8) Notwithstanding any details already submitted, no development above slab level shall take place until details have been submitted to and approved in writing by the local planning authority of boundary

treatments and landscaping around the site (including advanced structural planting to the southern, northern and north-eastern boundaries), together with a timetable for its implementation. The boundary treatments shall be erected and the landscaping around the site shall be undertaken in accordance with the approved details and the approved timetable. Any trees or plants that, within 10 years of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Highways

- 9) No development shall take place on site until the off-site highway works on Drawing WER-LE-GEN-XX-DR-CE-101 PLANNING (S5) Revision D have been completed in full.
- 10) Prior to the first occupation of any unit, the access, pedestrian routes, manoeuvring space and parking arrangements shall be completed in accordance with the details set out drawings 19089 P0003 Revision E and WER-LE-GEN-XX-DR-CE-101 PLANNING (S5) Revision D. The access roads, pedestrian routes, manoeuvring space and parking areas shall thereafter be retained for such purposes.
- 11) Prior to any development above slab level, details shall be submitted to and approved in writing by the local planning authority of the sight splays for each junction within the development. Those approved sight splays shall then be provided at each junction before the unit or parking area served by that junction is first brought into use, and thereafter kept clear of any obstruction greater than 600mm in height when measured from the nearest part of the carriageway.

Noise and living conditions

- 12) Prior to the commencement of the development, details shall be submitted to and approved in writing by the local planning authority of the means of construction of the acoustic mounding along the southern boundary of the site, and prior to the first occupation of any unit hereby approved the mounding shall be formed in accordance with the approved details and thereafter retained.
- 13) Prior to the commencement of development details of the location, extent, design and construction of noise barriers shall be submitted to and approved in writing by the local planning authority, and these shall be erected in accordance with the approved details prior to the first occupation of the development and thereafter retained.
- 14) Individual event noise at night (23:00hrs to 07:00hrs) from any activity on the appeal site shall not exceed 60dB LAMax at the façade of any adjacent dwelling more than 15 times during the 8 hour night period.
- 15) Any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used on the development hereby permitted shall be operated and maintained in a condition so that emitted noise individually or cumulatively does not exceed +5dB as calculated in accordance with British Standard 4142:2014 (or any amendments or modifications) at the nearest residential property.

- 16) Prior to any development above slab level, details shall be submitted to and approved in writing by the local planning authority of a Traffic Management Plan comprising measures to prevent vehicles parking along the access road and turning areas. The approved measures shall be in place before the first occupation of the development and the development shall then operate, at all times, in accordance with the approved measures.
- 17) Prior to any development above slab level, details shall be submitted to and approved in writing by the local planning authority of a Noise Management Plan, and the development shall then operate thereafter in accordance with the approved Noise Management Plan.
- 18) Prior to the commencement of the development hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority, and the development shall then be undertaken in accordance with that plan.

Drainage

- 19) No above ground work shall take place until full details of the surface water drainage scheme for the site, together with a timetable for its implementation, have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and timetable and thereafter retained.
- 20) No above ground work shall take place until full details of the management and maintenance of the surface water drainage scheme has been submitted to and approved in writing by the local planning authority.

Sustainable travel

- 21) Prior to the first occupation of the development hereby permitted, a commercial travel plan shall be submitted to and approved in writing by the local planning authority. The development shall operate in accordance with the approved travel plan thereafter.
- 22) Prior to the first occupation of the development hereby permitted, electric vehicle charging infrastructure shall be installed in accordance with details that have been first submitted to and approved in writing by the local planning authority, and this infrastructure shall thereafter be retained.
- 23) Prior to the first occupation of the development hereby permitted, cycle shelters shall be installed in accordance with approved plans and thereafter retained.

Archaeology

- 24) No development shall take place until the implementation of a programme of archaeological work, that has first been submitted to and approved in writing by the local planning authority, has been secured in accordance with a written scheme of investigation.