
Appeal Decision

Site visit made on 20 September 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2021

Appeal Ref: APP/J4525/W/21/3273852

**Marson House, Freezemoor Road, New Herrington Industrial Estate,
Houghton-Le-Spring DH4 7BH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr J M Atkinson (J C Atkinson Ltd) against Sunderland City Council.
 - The application Ref 20/02190/MAW, is dated 19 November 2020.
 - The development proposed is change of use to resomation and associated training facility (sui-generis use) (revised application).
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Decision

1. The appeal is allowed and planning permission is granted for proposed change of use to resomation and associated training facility (sui-generis use) at Marson House, Freezemoor Road, New Herrington Industrial Estate, Houghton-Le-Spring DH4 7BH in accordance with the terms of the application, Ref 20/02190/MAW, dated 19 November 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: L019025-100, L019025-101, L019025-102, L019025-103, L019025-104, L019025-105 & L019025-106.

Procedural Matters

2. The description of the development above is different from the planning application form as I have omitted some superfluous wording.
3. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has submitted a statement which sets out its objections. As these concern the matters of disagreement with the appellant, they form the basis of the main issues in this case.

Main Issues

4. The first main issue is whether the proposed use would be acceptable within the New Herrington Key Employment Area. The second main issue is whether the discharge to the public sewer associated with the use would be acceptable.

Reasons

5. The appeal relates to the proposed use of part of an existing unit on an industrial estate at New Herrington for a resomation and associated training facility. Resomation, also known as water cremation, is a process for the disposal of human remains and offers an alternative to the more established and traditional end of life processes.

Key employment area

6. The proposal would be for a sui generis use. Policy EG2 of the Core Strategy and Development Plan (2020) (CSDP) states that Key Employment Areas will be safeguarded for B1 (Business – excluding B1a), B2 (General Industrial) and B8 (Storage and Distribution) employment uses.
7. The supporting text recognises that whilst such areas are still required to meet anticipated needs for employment floorspace over the plan period, they are older and less effective employment areas, in locations of weaker demand. They are effectively secondary employment areas to those designated as primary employment areas under Policy EG1 of the CSDP.
8. There is nothing within the evidence which confirms that the site is no longer needed or capable of accommodating B Use Class employment uses (EG2:2.i.), that the site is of an insufficient quality and/or suitability to accommodate existing types of industrial demand (EG2:2.iii.) or has been unused for at least 24 months having been marketed (EG2:2.iv.). The proposal therefore conflicts with Policy EG2 of the CSDP.
9. However, whilst not classified under the uses identified within the policy, the proposed use would share characteristics with those permitted. The process would involve the use of resomator pressure vessels and a steam generator would be provided on site. Such processes would not be unsuited to an industrial estate.
10. Further, the resomatoria relates to only a very small section of what is a much larger building. It is also the case that large sections of the premises are not utilised for industrial purposes and form offices. Much of this type of accommodation would remain to be used alongside the use proposed. The proposal would not therefore deny large levels of floorspace to the supported uses on the estate.
11. Policy WWE7 relating to waste requires the need for the facility to be demonstrated if there is a clear conflict with other policies of the development plan. The evidence indicates that human bodies are not considered waste under the waste framework directive. However, even in the event that were considered the case, there is a clear need for end-of-life processes. I accept that there are more established end of life processes available. However, there is also a need to reduce emissions where possible and the evidence indicates that the resomation process has a significantly lower carbon footprint than cremation. The proposal would not therefore conflict with Policy WWE7 of the CSDP.
12. I therefore conclude on this matter that whilst the proposal would not accord with Policy EG2 of the CSDP, the use would remain commensurate with the purpose of the estate. Further, the use would not significantly undermine available floor space provision for policy compliant uses on the estate. I have

afforded these matters significant weight such that they outweigh the conflict with Policy EG2 of the CSDP.

13. The proposal would therefore be acceptable within the New Herrington Key Employment Area.

Discharge to the public sewer

14. Whilst concern is raised in relation to this matter, the evidence indicates that Northumbrian Water (NW) have raised no objection to the application and have granted consent to the discharge of trade effluent. The number of processes would be limited per day under the terms of their consent, and the PH value of the resultant sterile discharge is also dictated by this consent.
15. There is nothing within the evidence which indicates that the operator would not be able to work within the requirements of NW and within the requirements of the Trade Effluent Consent Agreement. The manner in which any formaldehyde is dealt with during the process is a matter between NW and the Environment Agency.
16. I conclude on this matter that the discharge to the public sewer which would be associated with the proposal would therefore be acceptable. Subsequently, the proposal would accord with Policies WWE4, WWE5 and HS1 of the CSDP which amongst other things require such proposals to have a trade effluent consent and not result in unacceptable adverse impacts arising from sources including run off to protected waters. The proposal would also accord with Policy WWE7 of the CSDP where it seeks to guard against harm to water quality.

Other Matters

17. There is housing within the area, but the nearest properties are set away from the building behind front gardens, the tree lined B1286 and the hardstanding which surrounds the premises. The proposal is therefore unlikely to have any significant adverse impact on the living conditions of nearby residential occupiers due to the level of separation.
18. The issue of impact on property values has also been raised. However, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

19. No conditions have been suggested by the parties. Planning permission is granted subject to the standard three-year time limit. It is also necessary that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
20. I have not included the condition suggested by NW as in line with guidance¹, planning conditions should not be used which require compliance with other regulatory requirements.

¹ <https://www.gov.uk/guidance/use-of-planning-conditions> Paragraph: 005 Reference ID: 21a-005-20190723.

Conclusion and Planning Balance

21. I have identified conflict with the development plan. However, considerations indicate that the appeal should be determined otherwise than in accordance with it. I therefore conclude that the appeal should be allowed.

T J Burnham

INSPECTOR