

Appeal Decision

Site visit made on 9 December 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2022

Appeal Ref: APP/X3540/W/21/3273329

Former Itron Factory, Carr Road, Felixstowe IP11 2ER

- 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 Peter Colby (Peter Colby Commercials Group) against the decision of East Suffolk Council.
 - The application Ref DC/20/1666/FUL, dated 4 May 2020, was refused by notice dated 29 October 2020.
 - The development proposed is demolition of ancillary buildings and plant and the change of use and subdivision of main building from B1(c) business use to mixed business uses, including B1(a) office, B1(c) light industrial, B8 storage and ancillary A3 café. Creation of new vehicular access onto Carr Road, new car parking and alterations to elevations to existing building to create new openings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of ancillary buildings and plant and the change of use and subdivision of main building from B1(c) business use to mixed business uses, including B1(a) office, B1(c) light industrial, B8 storage and ancillary A3 café, and creation of new vehicular access onto Carr Road, new car parking and alterations to elevations to existing building to create new openings at former Itron Factory, Carr Road, Felixstowe IP11 2ER. The permission is granted in accordance with the terms of the application Ref DC/20/1666/FUL, dated 4 May 2020, subject to the conditions included in the Schedule at Annexe A.

Preliminary Matters

2. Changes to the Use Classes Order since the application was made mean that all the proposed uses now fall within new Class E except for the proposed B8 storage use, which remains unchanged¹.

Main Issue

3. The main issue is the suitability of the location for the proposed B8 storage use, with particular regard to development plan policies concerning such uses; and, related to this, the effect on the living conditions of nearby residents related to heavy goods vehicle (HGV) movements to and from the appeal site.

¹ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amend the Town and Country Planning (Use Classes) Order 1987 and came into force on 1 September 2020.

Reasons

4. The appeal site comprises former factory buildings with a frontage on Carr Road, to the south-west of Felixstowe town centre and close to the Port of Felixstowe to the north. The Suffolk Sand Caravan Park is on the opposite side of Carr Road, with industrial and commercial development immediately east and west of the site. Further to the east Carr Road becomes more residential in character.
5. Policy SCLP12.9 of the Suffolk Coastal Local Plan (2020) concerns future development of the appeal site and indicates that employment opportunities will be encouraged. However, the B8 storage element of the appeal proposal is contrary to criterion d), which states that warehousing or storage activities will be resisted and directed towards land identified under Policy SCLP12.4 or other areas designated for Port and Logistics uses.
6. As the appellant contends, the policy background is somewhat unclear as Policy SCLP12.4 concerns a site designated for residential development with no apparent employment uses. I am not aware that this matter is clarified by the Council in its appeal submissions. However, in the officer's report on the application the reason given for restricting B8 use on the appeal site is due to the level of HGV movements that such a use can attract. In the absence of any other explanation for the restriction, I have taken this to be the principal basis for the Council's concern about the B8 use.
7. This approach would also be consistent with Policy SCLP4.2 concerning new employment development, which states that employment uses within settlement boundaries, including B8, will be supported where these do not have an adverse impact on surrounding land use, living conditions and the local highway network. For these reasons, the principal consideration in this case relates to the second part of the main issue, concerning the effect on the living conditions of nearby residents of HGV movements to and from the appeal site.
8. The appellant explains that the B8 element accounts for 28% of the total floorspace and the units would be used as trade counters, where the primary use is storage with an ancillary trade counter element. While there are no specified operators for the units, trade counter warehouses are generally stocked with materials, tools or similar supplies and service local trades which typically have accounts and order online and collect. Stock is replenished mostly in vans and occasionally by lorry. Based on the amount of floorspace and by comparison with similar operations elsewhere, it is estimated that typically one to three HGV movements each week might be expected.
9. I give some weight to the appellant's contention that there is a history of HGV movements to and from the site due to previous uses. Moreover, subject to appropriate control by conditions, the number of movements associated with the proposed use would be limited. I note in this regard that the Highway Authority has not objected and I consider that the limited number of HGV movements arising from the proposal would not be of sufficient frequency to result in material harm through noise, disturbance or other inconvenience to local residents or other road users, including those related to nearby tourist locations. I note the Council's observation that there are already concerns about HGVs taking incorrect routes through residential areas and, indeed, I

observed some use of Carr Road by HGVs at the time of the inspection. However, any such incorrect use of routes should not count against the proposal where the occurrence of HGV movements arising from it would be limited.

10. Therefore, for these reasons, I conclude that the appeal site would be a suitable location for the proposal as a whole, including the B8 element, particularly as it would not have a harmful effect on the living conditions of nearby residents related to HGV movements to and from the appeal site. Consequently, there is no conflict with Policy SCLP12.9 of the Local Plan as described above, or with Policy SCLP11.2 of the Local Plan, which seeks to safeguard residential amenity.
11. In reaching this conclusion I have had full regard to the representations from Felixstowe Town Council.

Conclusion and Conditions

12. For the reasons given above, the appeal should succeed. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of development in accordance with the submitted details, one requiring development to be carried out in accordance with the approved plans and other details. Conditions requiring materials and finishes to be retained, and to protect ecological interests of the site are necessary in terms of the building's appearance and the site's ecological qualities.
13. The conditions suggested by the Highway Authority concerning implementation of access and parking arrangements, including managing surface water discharge, bin storage and lighting, are necessary in the interests of highway safety. Cycle storage details should be approved to encourage sustainable travel. I accept also that a condition is necessary requiring a minimum number of parking spaces to be retained on land adjacent to the appeal site within the appellant's control, to ensure sufficient on-site parking and avoid on-street parking.
14. I agree that conditions restricting public opening hours and HGV delivery times and amounts are necessary in the interests of residential amenity. I note that the Council suggests that no more than three such deliveries can take place on one given day. While this may be a greater number than suggested is likely by the appellant, based on the above findings there is no basis to conclude that this level of HGV movements would result in material harm. Finally, I agree that a condition is necessary to restrict the amount of B8 floorspace to ensure that this use is controlled in relation to limiting HGV movements in the interests of protecting residential amenity.

J Bell-Williamson

INSPECTOR

Annexe A

Schedule – conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and other details: 6741/1101 site and block plan, 6741/1103 proposed site plan, 6741/1205 proposed ground floor plan, 6741/1302 proposed elevations and IT2128/TS/02 Rev A site access arrangements and visibility splays; Ecology Assessment (letter from Essex Ecology Services Limited received 19.08.2020), Flood Risk Assessment and Flood Evacuation Plan received 4.05.2020.
- 3) The materials and finishes shall be as indicated within the submitted application and thereafter retained as such, unless otherwise agreed in writing with the local planning authority.
- 4) Development must be undertaken in accordance with the ecological avoidance, mitigation, compensation, and enhancement measures identified within the ecological assessment (EECOS, 24th July 2020) as submitted with the planning application and agreed in principle with the local planning authority prior to determination.
- 5) No removal of hedgerows, trees, shrubs, or other vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.
- 6) The new vehicular access shall be laid out and completed in all respects in accordance with Drawing No. IT2128/TS/02 Rev A; and with an entrance width of 9.5 metres and made available for use prior to occupation and use of the development hereby permitted. Thereafter the access shall be retained in the specified form.
- 7) Before construction of the access road and parking area is commenced details shall be submitted to and approved in writing by the local planning authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.
- 8) Prior to occupation and use of the development hereby permitted, details of the areas to be provided for storage of Refuse/Recycling bins shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- 9) The lux level of the lighting at ground level at the highway boundary shall not exceed 1 lux.

- 10) Before the access is first used visibility splays shall be provided as shown on Drawing No. IT2128/TS/02 Rev A with an X dimension of 2.4m and a Y dimension of 70m and thereafter retained in the specified form. No obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
- 11) The use shall not commence until the areas within the site shown on Drawing No.6741/1103 for the purposes of loading and unloading, manoeuvring and parking of vehicles has been provided and thereafter those areas shall be retained and used for no other purposes.
- 12) Prior to occupation and use details of the areas to be provided for secure cycle storage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- 13) A minimum of 52 existing vehicle parking spaces on land adjacent to the permitted development (shown edged in blue on drawing 6741/1101) shall be retained thereafter for the purpose of vehicle parking for the permitted development and used for no other purpose.
- 14) The premises shall only be open to the public between 06:00 and 21:00 Monday to Friday, and between 06:00 and 18:00 on Saturdays, and the premises shall be closed to the public at all other times including on Sundays and Bank and other Public Holidays.
- 15) Deliveries by HGVs shall only take place Monday to Friday between 08:00 and 18:00 and on Saturdays between 08:00 and 13:00. No more than three HGV movements can occur during these hours on one given day.
- 16) The B8 use hereby permitted shall be restricted to units 7 and 8 only as shown on drawing no.6741/1205.

[End of Schedule]