

Appeal Decision

Site visit made on 15 November 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2022

Appeal Ref: APP/D2320/W/22/3296378

Land South of Mercer Court and East of Westhoughton Road, Adlington

- 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 E Joynt against the decision of Chorley Borough Council.
 - The application Ref 21/01416/FUL, dated 7 December 2021, was refused by notice dated 1 April 2022.
 - The development proposed is the erection of six buildings comprising 12no light industrial business units.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of six buildings comprising 12no light industrial business units, at Land South of Mercer Court and East of Westhoughton Road, Adlington, in accordance with the terms of the application, Ref 21/01416/FUL, dated 7 December 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development and appeal site address in the banner heading and decision paragraph are taken from the Council's decision notice rather than the planning application form as they more accurately describe both matters.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupiers of nearby dwellings with regards to noise and disturbance.

Reasons

4. The appeal site comprises a strip of land located between a railway line to the east and houses to the west. The site is accessed from Rawlinson Lane to the north, which also serves three existing dwellings at Mercer Court. The proposal seeks to erect six single-storey buildings, each containing two light industrial units, with hardstanding and parking areas, under Use Class E(g) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.
5. The introduction of 12 commercial units has the potential to introduce additional noise sources to the area through operational activities within and around the units, as well as comings and goings of vehicles used by staff going to or leaving work, engines starting, doors closing and loading/unloading. The nearest dwellings to the proposed units are those at Kings Lea, which back onto the appeal site, while No's 1-3 Mercer Court are located at the site access from Rawlinson Lane.

6. I have had regard to the Noise Assessment (Martec Environmental Consultants - 20201209 7678 Heath Charnock BS4142.docx) which concludes that noise generated by the activities associated with the units themselves on neighbouring dwellings would fall below existing background noise levels. This was accepted by the Council's Environmental Health Officer and there was no concern highlighted in this regard. Furthermore, opening hours would be controlled by planning condition while any heavy industry or activities which would require loud processes or power tools would not be allowed by the proposed use class of the buildings. As such, any proposal to introduce a use outside of Class E(g) would require a planning application which would give the Council control over any future changes.
7. Noise from vehicles entering and exiting the site would likely be concentrated during the traditional morning and late afternoon rush hours. This would be when local people are also generally leaving for work or arriving home, which would not be unusual in a residential area and this pattern would be replicated by the appeal proposal. I observed on the site visit that there was a moderate level of vehicular activity along the A6 and Rawlinson Lane which created existing noise within the appeal site. Alongside the intermittent travelling of trains along the rail line, the area was not a quiet rural area, and the activity generated by vehicles using the units would not cause unacceptable disturbance to nearby residents.
8. Although deliveries during the day would also be likely, this would be infrequent once the project was built and take place during the working day. Given the overall low number and infrequency of these movements, this would not cause local residents undue nuisance.
9. I have had regard to the concerns of local residents raised with regards to any other matters of noise and disturbance. Although questions were raised over the noise assessment, the methodology was accepted by the Council's Environmental Health Officer and its conclusions were considered acceptable. There is nothing substantive before me to the contrary and I see no reason not to also accept the findings of the assessment.
10. Based on the foregoing, the proposal would not harm the living conditions of occupiers of adjacent dwellings. This would accord with Policies EP3, EP4 and BNE1 of the Chorley Local Plan 2012 – 2026 (adopted July 2015). These seek, among other things, to ensure proposals for new business and employment uses will not cause unacceptable harm e.g. noise to surrounding uses.

Other Matters

11. I have had regard to other matters raised by interested parties not covered by the main issue. Although I understand there are concerns relating to highway safety, the Council's highways consultee did not offer any objections subject to the imposition of several conditions relating to the site access and other works. Furthermore, there were no objections by consultees or reasons for refusal relating to ecology or biodiversity, flood risk, other forms of pollution, character and appearance or drainage. There is nothing substantive before me on any of these matters to disagree with their respective assessments.

12. My attention is drawn to planning applications¹ for other facilities similar to the proposals which could be of interest to prospective future users of the appeal site. However, other than a planning application reference code I do not have any information on these developments. In any event, the existence of other similar facilities in the Chorley area does not mean further developments of this type should be refused.
13. I understand that planning applications on the appeal site have been approved for seven² and two³ dwellings respectively. I observed on the site visit the footings for some of these were in place, although nothing above ground level was present. I have no information as to why the appellant did not pursue their construction, although there is no obligation to complete the project.

Conditions

14. I have considered the Council's suggested conditions as outlined in their appeal statement of case, in accordance with the Planning Practice Guidance and paragraph 56 of the Framework. Where necessary, and in the interests of precision and enforceability, I have altered the wording of the suggested conditions. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement and/or comments with regards to the terms of any pre-commencement conditions suggested.
15. The standard conditions relating to the commencement of development and identifying the approved plans are necessary in the interests of certainty.
16. Planning conditions specifying the use class of the buildings as Class E(g), securing details of boundary treatments, ground levels, no storage of goods outdoors, hours of operation and deliveries, noise measures outlined in the noise assessment, closing of doors, external lighting and a construction management plan are necessary to safeguard the living conditions of occupiers of nearby properties.
17. To enhance biodiversity and improve the character and appearance of the site, it is necessary to impose a condition requiring the submission of an agreeable landscaping scheme. The protection of biodiversity interests and ecological networks also necessitates conditions relating to site clearance works, the protection of trees, the eradication of invasive species if present on site, lighting, surface water management and adherence to the agreed ecological appraisal.
18. It is also necessary to secure agreement prior to development above ground level with regards to surface and roof materials in order to maintain the character and appearance of the area. Several conditions are also attached to ensure acceptable drainage, water management, pollution prevention maintenance provisions are necessary to ensure flood risk, contamination or harm to biodiversity is increased.
19. A condition to secure suitable cycle parking is necessary to encourage travel by more sustainable means to and from the site, while the agreed parking and

¹ Botany Bay Boatyard (21/01065/FULMAJ), Botany Bay Canal Mill (21/00439/FULMAJ) and Strawberry Meadows Business Park (no reference given).

² 18/00191/FUL

³ 20/00170/FUL

manoeuvring layouts and the agreement of a construction method statement prior to commencement of works are necessary to ensure highway safety and internal vehicular movement safety.

20. I have not attached suggested condition 25 which specifies the development shall not commence until details relating to the amended vehicular access are agreed in writing. The highways consultee has confirmed their acceptance of the proposed access arrangements and as such, a condition is instead attached to specify the buildings shall not be brought into use until this is implemented in the interests of achieving a safe and suitable access into the site.

Conclusion

21. The proposal would comply with the development plan as a whole and there are no other considerations which indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above, and taking account of all other matters, the appeal is allowed.

C McDonagh

INSPECTOR

Schedule Of 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: Location Plan, Drawing Ref 2025-PL01 Rev.B; Location Plan, Drawing Ref 21/146/10; Proposed Business Unit, Drawing Ref 21/146/1; Proposed Business Units Site Layout Sheet 1, Drawing Ref 21/146/2; Proposed Business Units Site Layout Sheet 2, Drawing Ref 21/146/3; Proposed Business Units Site Layout Sheet 3, Drawing Ref 21/146/4; Proposed Access Arrangement and Visibility Splays, Drawing Ref SCP/200770/SK01 Rev B.
3. No development shall take place until a scheme for the landscaping of the development and its surroundings is submitted to, and approved in writing by, the Local Planning Authority. These details shall include all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development; indicate the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform, proposed finished levels, means of enclosure, minor artefacts and structures.

The scheme should include a landscaping/habitat creation and management plan which should aim to contribute to targets specified in the UK and Lancashire Biodiversity Action Plans. Details of biodiversity enhancement measures, such as bat and bird boxes, shall be included in the scheme, in accordance with Appendix IV of the submitted Preliminary Ecological Appraisal, dated May 2021, produced by Tyrer Ecological Consultants Ltd.

4. No development shall take place until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority.

The detailed sustainable drainage strategy shall be based upon the site-specific flood risk assessment submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and no. 3 surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

Those details shall include, as a minimum:

- Sustainable drainage calculations for peak flow control and volume control (1 in 1, 1 in 30 and 1 in 100 + 40% climate change), with allowance for urban creep.
- Final sustainable drainage plans appropriately labelled to include, as a minimum:
 - Plan(s) identifying areas contributing to the drainage network, including surface water flows from outside the curtilage as necessary;

- Sustainable drainage system layout showing all pipe and structure references, dimensions, design levels;
 - Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
 - Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
 - Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each plot to confirm minimum 150mm+ difference for FFL.
- Measures taken to manage the quality of the surface water runoff to prevent pollution, protects groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;
 - Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and groundwater levels in accordance with industry guidance.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

5. No development shall take place until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the Local Planning Authority.

Those details shall include for each phase, as a minimum:

- Measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged, they are done so at a restricted rate to be agreed with the Lancashire County Council LLFA.

Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance. The development shall be constructed in accordance with the approved details.

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors;
- Hours of operation (including deliveries) during construction;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- Wheel washing facilities;
 - Measures to control the emission of dust and dirt during construction;
 - A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - Arrangements for staff and visitor parking throughout the duration of the development works.
7. No earthworks shall be undertaken until a method statement detailing eradication and/or control and/or avoidance measures for Rhododendron shrubs and Himalayan Balsam is submitted to, and approved in writing by, the Local Planning Authority. The agreed method statement shall be adhered to thereafter and implemented in full unless otherwise agreed in writing by the Local Planning Authority.
8. No construction of the buildings hereby approved shall take place above ground level until samples of all external facing and roofing materials (notwithstanding any details shown on previously submitted plans and specification) shall be submitted to, and approved in writing by, the Local Planning Authority. All works shall be undertaken strictly in accordance with the details as approved.
9. No construction of the buildings hereby approved shall take place above ground level until full details of the alignment, height and appearance of all fences and walls to be erected to the site boundaries (notwithstanding any such detail shown on previously submitted plans) shall be submitted to, and approved in writing by, the Local Planning Authority. No building shall be occupied, or land used pursuant to this permission, before all walls and fences have been erected in accordance with the approved details. Fences and walls shall thereafter be retained in accordance with the approved details.
10. No construction of the buildings hereby approved shall take place above ground level until full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site) shall have been submitted to, and approved in writing by, the Local Planning Authority, notwithstanding any such detail shown on previously submitted plan(s). The development shall be carried out strictly in conformity with the approved details.
11. No building hereby approved shall be occupied for its intended use until the noise attenuation measures as set out in Table 6 of the Noise Assessment dated 09 December 2020 produced by Martec Environmental Consultants Ltd. have been installed in full. These measures shall be retained in perpetuity.
12. No building hereby approved shall be occupied for its intended use until a Verification Report and Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor

variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

13. No building hereby approved shall be occupied or opened for trading until the associated car parking and vehicle manoeuvring areas identified on the approved plans have been surfaced, drained and marked out all in accordance with the approved plan. The car parking and vehicle manoeuvring areas shall not thereafter be used for any purpose other than the parking of and manoeuvring of vehicles.
14. No building hereby approved shall be occupied or opened for trading until provision for cycle parking, in accordance with the approved plans, has been provided in all respects and made available for use and shall thereafter be retained.
15. No building hereby approved shall be occupied or opened for trading until the approved scheme for the construction of the site access and the off-site works of highway improvement has been constructed and completed in accordance with the scheme details.
16. No building hereby approved shall be occupied or opened for trading until the measures set out within the flood risk assessment drainage strategy (February 2018, CTC Infrastructure Limited) have been completed and implemented in accordance with the approved plans. The measures shall be fully implemented prior to first occupation of any building and in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Lead Local Flood Authority (LLFA).
17. The buildings and associated units hereby approved shall be used for Class E(g) purposes and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).
18. Landscaping proposals should comprise only native plant communities appropriate to the natural area. All hard and soft landscape works shall be carried out in accordance with the approved details within the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or

plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

19. The units hereby permitted shall only operate between 08:00 and 18:00 hours Monday to Friday, 08:00 and 13:00 hours on Saturdays and will not operate on Sundays or Bank Holidays/Public Holidays.
20. Deliveries, servicing and collections to and from the units hereby permitted, including waste collections, shall take place only between the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 hours on Saturdays. Where exceptional circumstances require deliveries/servicing/collections to take place outside these stated hours, full written permission must be sought from the Local Planning Authority.
21. The buildings hereby approved shall operate with doors closed at all times other than for access and egress or during loading and unloading.
22. No source of external illumination shall be installed on the development hereby permitted, unless otherwise agreed in writing with the Local Planning Authority.
23. No works to trees, shrubs, or vegetation, or works to remove buildings shall occur between the 1 March and 31 August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to this clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.
24. During the construction period, all trees to be retained shall be protected in accordance with British Standard BS 5837:2012 or any subsequent amendment to the British Standards.
25. All works shall be undertaken in strict accordance with the reasonable precautions identified at Paragraph 8.11 of the submitted Preliminary Ecological Appraisal, dated May 2021, produced by Tyrer Ecological Consultants Ltd.
26. No goods, plant or material shall be deposited or stored in the open or displayed for sale in the open within the site.

END OF SCHEDULE