



Appeal Decision

Site visit made on 22 November 2022

by Mr M Brooker

an Inspector appointed by the Secretary of State

Decision date: 28 December 2022

Appeal Ref: APP/V0728/W/22/3301397

Former South Tees Motor Cross Park, Old Station Road, South Bank TS6 6AQ

- 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 Teesstone Group Ltd against the decision of Redcar and Cleveland Borough Council.
 - The application Ref R/2021/0843/RSM, dated 23 September 2021, was refused by notice dated 21 January 2022.
 - The development proposed is described as an inert soil facility.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made on behalf of the appellant. This application is subject to a separate decision.

Preliminary Matters

3. The Council did not provide a Statement of Case, choosing to rely on the Officer's report, but has provided a comprehensive list of conditions which they consider should be imposed if planning permission is granted. As such, I have progressed the appeal on the basis of the evidence provided.
4. The description of development in the banner above is taken from the application form, the appellant clearly indicated on the appeal form that they did not agree to the different description of development detailed on the decision notice. I am satisfied that the description of development detailed above is adequate.

Main Issues

5. The main issues are:
 - i. the effect of the proposed development on the living conditions of occupiers of The Haven site with particular regards to noise and general disturbance from the use of the proposed access road by HGV vehicles.
 - ii. whether or not the proposed development would prevent the area allocated for a proposed extension to the adjoining Haven site being brought forward for that use.

Reasons

Living conditions

6. The appeal site is a former motor cross track situated between the A66 and a railway line, within the South Tees Business Park. The surrounding area is industrial in nature. The Haven Gypsy and Traveller site (The Haven) is located close to the boundary with the site with approximately 19 residential bungalows and hardstandings where, amongst other vehicles, mobile caravans are parked.
7. The proposed access to the appeal scheme is an existing road that links the appeal site to Old Station Road and passes directly to the side of The Haven, past the only open the access point. I note that the appellant proposes to close this entrance to The Haven and reopen a previously closed entrance to the northern side of The Haven.
8. I saw at the site visit that the appeal is currently disused, and the land is uneven with significant earth bunds to its perimeter and throughout the site and there appeared to have been some flytipping at the site and around the entrance.
9. The report titled 'Noise Impact Assessment of a Soil Processing Facility' by Nova Acoustics identifies that the proposed development is predicted to cause a low level of impact and specific sound level emissions from the proposed site are predicted to have a 'not significant' impact on the amenity of the surrounding Noise Sensitive Receptors. This is identified by the Assessment as being a significant improvement on the previous use of the site for motorsports. Nonetheless, the report's noise model shows significant noise generated at the access route and specific locations within the site and mitigation measures are proposed.
10. The appellant's Dust Management Plan identifies that "due to the type of Operations on site and operations proposed with this inert soil operation (it is) accepted emissions of dust and mud may cause some issues on-site and outside the boundary of the site". Various measures are proposed to mitigate these impacts.
11. The Transport Assessment prepared by TOTAL PLANNING SOLUTIONS (UK) LTD on behalf of the appellant details that the appeal scheme would result in there being 30 vehicle movements per day relating to members of staff and 60 movements per day of Heavy Goods Vehicles of up to 32 tonnes. This is a significant number of vehicle movements in close proximity to the residences on the Haven site. Such a number of Heavy Goods Vehicle and other vehicle movements within close proximity to the Haven site would, notwithstanding the findings of NIA, inevitably result in disturbance to the occupiers of that site.
12. I note that it is not at dispute between the parties that the access route is acceptable from a highway perspective, with particular regards to the standard of construction, speed limit and visibility at the junction with Old Station Road and based on the evidence before me I find no substantive reason to conclude otherwise.

13. To mitigate the potential effects of the appeal scheme on, amongst other receptors, the occupiers of the Haven, the appellant makes reference to various measures including the provision of an acoustic timber fence on top of the existing high bund near to the Haven, restricted operating hours and on-site wheel washing facilities.
14. Furthermore, the appellant has proposed that a Grampian style condition be added to any permission resulting from the appeal with the effect of closing the existing southern entrance to the Haven and reopening the northern entrance. I am not clear as to the reasoning behind the earlier closing of the northern entrance, I note that responses to consultation referred to highway safety concerns.
15. Such a condition would require works on land that is not controlled by the applicant and the Planning Practice Guidance advises that Grampian conditions should not be used where there are 'no prospects at all' of the action being performed within the time-limit imposed by the condition. In the context that the Council refused to grant planning permission, Ward Councillors spoke against the application, many local persons made representations against the appeal scheme and because there are albeit unspecified highway safety concerns regarding the use of the northern entrance, I do not find that it has been demonstrated that there is any prospect at all of the action being performed. Even if I found otherwise, the closing of the southern entrance to the Haven would not adequately mitigate the effect of the appeal scheme on the occupiers of the adjacent residential units.
16. The Haven is a residential site in a predominantly industrial area. The only vehicular entrance to the appeal site is in close proximity to the Haven and would be heavily trafficked by large goods vehicles accessing the appeal site. I am not satisfied that the mitigation measures proposed by the appellant would reduce the inherent impact of the number of large vehicle movements on the residents of the Haven to acceptable levels.
17. For the reasons detailed above I therefore find that the appeal scheme would result in unacceptable harm to the living conditions of the occupiers of the Haven site with particular regards to noise and general disturbance from the use of the proposed access road by HGV vehicles. The appeal scheme is therefore contrary to Policies SD4(b) of the Redcar and Cleveland Local Plan that seeks to protect the living conditions of the occupiers of existing properties.

Extension

18. The Council details that part of the proposed development, specifically "a 2m high acoustic fence located on the top of an existing bund", is located on land allocated for the future housing needs of the gypsy and traveller community contrary to policy H7, specifically for an extension to the adjacent Haven site.
19. I have not been provided with a copy of the proposals map that accompanies the Local Plan but the description of the allocated land provided by the Council and specifically the reference to the inclusion of part of the existing bund and where the proposed acoustic fencing would be located, suggests that the allocated land includes a tall and very steeply sloping bund.

20. I saw at the site visit that, unless future residents were to be overflowing with mountain goat like strength and seeking alpine-esque accommodation, significant reprofiling of the bund would be required to facilitate the extension.
21. While the appellant makes reference to the under occupation of the Haven site at present and the temporary nature of the appeal scheme, I have no substantive evidence regarding these matters. The Haven site appeared well occupied at the time of my site visit and while the appeal scheme is described as temporary by the appellant, there is no guarantee that the cessation of the operation on the appeal site would coincide with the need to expand the Haven site.
22. To conclude this main issue, part of the appeal site is land that is allocated as an extension to the existing Haven site in the Local Plan and the appeal scheme incorporates a proposal to erect an acoustic fence on part of this land that consist of an existing high bund that in itself has a mitigating effect, with regards noise and dust.
23. Thus, I find that the appeal scheme would prevent the future extension of the Haven site and as such is contrary to policies policy H7 of the Local Plan that protects land for a future Gypsy and Traveller site.
24. The decision notice also referred to Policy SD4a that refers to the requirements of the locational Policy and requires accordance with other local plan policies and designations but has not specified how the proposals are contrary to this very general policy.

Other Matters

25. I note that there are a number of material considerations that weigh in favour of the appeal scheme, not least the creation of jobs, the reuse of an untidy and previously developed site and I afford them some weight but these matters to not outweigh the harm I have previously identified.
26. I note that the appellant has reached an agreement with the Council to lease the land, while it is unusual but not unheard of for different arms of the Council to be of different opinions, the agreement to lease the land does not outweigh the harm I have identified previously.

Conclusion

27. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR