



Appeal Decision

Site visit made on 18 April 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2023

Appeal Ref: APP/X1355/W/22/3313662

Unit 9, Byron House, Hall Dene Way, Seaham Grange Industrial Estate, Seaham SR7 0PY

- 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 Laura Howes of Pets at Peace, Seaham Pet Crematorium against the decision of Durham County Council.
 - The application Ref DM/22/01917/WAS, dated 4 July 2022, was refused by notice dated 7 December 2022.
 - The development proposed is change of use to pet crematorium and the installation of a stainless steel chimney extending through the roof.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to pet crematorium and the installation of a stainless steel chimney extending through the roof at Unit 9, Byron House, Hall Dene Way, Seaham Grange Industrial Estate, Seaham SR7 0PY in accordance with the terms of the application, Ref DM/22/01917/WAS, dated 4 July 2022, subject to the conditions set out in the schedule below.

Preliminary Matter

2. I have removed reference to 'sui generis' in the banner heading above which originally appeared in the description of development on the application form. This is a Latin term meaning something that can't be categorised, as such I have removed it for clarity and to more adequately describe the development.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring residents.

Reasons

4. The appeal site is a unit within Byron House which comprises workshops and office space, located at the Seaham Grange Industrial Estate. There are residential properties nearby to the site on Stockton Road and Glebe Drive, and in the wider area on Field House Farm and Burden Crescent, the closest properties on Stockton Road being about 40 meters away.
5. In their statement, the Council has presented generalised concerns about the effect of the appeal site's adjacency to nearby dwellings and the schemes possible effects on the living conditions of the residents. A number of objections have also been raised from interested parties, including a petition with a large number of local signatures and I note the concerns regarding

emissions, odour and noise effecting local residents' health and wellbeing which I have carefully considered.

6. The appellant has drawn my attention to the officer report to planning committee which assesses the effect of the proposal on noise, air quality, odour and health. I note that the cremator would not operate continuously, with maximum operating hours likely to be at around 12 hours per day and would have a moderate noise level of 56dB. As such, the Council's environmental health officers did not raise any concerns with regard to noise and I have no reasons not to agree. There is no clear reason why noise levels would be so significant to be detrimental to residents living conditions given the small scale of the proposed operation and the moderate noise levels.
7. There are concerns that given the prevailing winds in the locality any emissions or odour would readily be experienced by residents in nearby properties, and a number of objectors have indicated that they already experience negative odours from food production factories located within the industrial estate to support their concerns regarding the appeal scheme. Nonetheless, the cremator would have a chimney stack to exhaust waste gases so they are not harmful to air quality, which has been demonstrated through the submitted Air Quality Assessment (2022). Air quality specialists AECOM on behalf of the Council, reviewed the assessment and agreed with the conclusions and environmental health officers raised no objections to the proposal. However, to ensure appropriate air quality and odour, conditions were suggested to secure the appropriate chimney stack height and width, and the submission of an odour management plan to ensure that the proposal would not result in harm to human health.
8. I have not been presented with any minutes from the meeting of the planning committee. Nevertheless, even if the issues of amenity and health were rigorously debated, based on the evidence before me, the air quality assessment was completed correctly, and all relevant matters were taken into account. There is no detailed evidence to suggest that the technical conclusions of the air quality assessment are incorrect or unreliable, or that the proposed planning conditions would not protect the living conditions of neighbouring residents.
9. Accordingly, I have no clear reason to disagree with the findings of the air quality assessment or the conclusions of relevant Council officers on this main issue. I am satisfied that through the imposition of the suggested conditions there would not be any unacceptable effect on the living conditions of nearby residents, particularly relating to local air quality, odour and human health.
10. Consequently, the proposal would not cause harm to the living conditions of neighbouring residents, and so accords with Policy 31 of the County Durham Plan (2020). Amongst other things, this policy requires development to have no unacceptable impacts on health, living or working conditions.
11. The proposal is also in line with the provisions of Section 15 of the National Planning Policy Framework (2021) (the Framework) and Paragraph 7 of the National Planning Policy for Waste (2014), which seek development that is appropriate for its location, taking into account the likely effects of pollution on health and living conditions, and ensure that waste management facilities are well designed so that they contribute positively to the quality of the area in which they are located.

Other Matters

12. A number of other matters have been raised by interested parties. I agree with Council's officer report that the proposed use is acceptable within the designated industrial estate, as it would not compromise the main use of the estate and would still provide employment. No firm evidence has been presented to demonstrate that the proposal would negatively affect nearby businesses. Similarly, it has not been shown that there are other locations that would be better suited to the appeal scheme. Moreover, given that there is no policy requirement for a sequential approach to be taken, the scheme must be assessed on its own planning merits.
13. Despite concerns that allowing the appeal scheme would lead the way for similar development nearby I have not been presented with any evidence that this is a likely prospect. Given my findings above on the main issue there is no detailed evidence to suggest that the exhaust waste gases from the scheme would pose a threat of contamination to the nearby food production factories or be harmful to the users of the adjacent commercial units and the nearby children's indoor play areas.
14. Reference has also been made to the effect of the proposal on children's wellbeing given the nearby children's indoor play areas. However, a collection service is proposed, non-see-through suitable animal cadaver bags would be used and customers would drop off their pet on an appointment only basis. Given this, and the modest scale of the proposed operation, it seems unlikely that children will see anything that may be upsetting.
15. Concerns have been raised with regard to traffic levels and parking provision at the industrial estate. Nonetheless, the Framework in paragraph 111 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Moreover, I note that the Highway Authority raised no objections to the proposal. Given the scale of the proposed use it is unlikely that the appeal scheme would result in an increase in traffic movements and parking of such a scale that it would be harmful to highway safety or have a severe impact on the highway network.
16. A number of interested parties have referred me to the Cremation Act, however this relates to human cremation. Concerns regarding the proposal devaluing properties in the area is largely a private matter, and along with a number of residents expressing frustrations with the Council's handling of the case, have not affected my consideration of the planning merits of the scheme.

Protected Sites

17. The Council's officer report to planning committee indicates that the appeal site lies within 2km of the Durham Coast Special Area of Conservation (SAC). The appeal site is also within 2km of the Northumbria Coast Special Protection Area (SPA) and Northumbria Coast Ramsar. These European sites and Ramsar site are afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require screening to be undertaken to check if a proposal risks having a significant effect on a protected site.

18. The appeal scheme would result in emissions to air from the cremator and given the proximity of the appeal site to the protected sites, during the determination of the application the Council requested an assessment of air quality impacts. The submitted Air Quality Assessment assessed the effects of the proposal on the nearby SAC, SPA, and the overlapping Durham Coast Site of Special Scientific Interest designation. Albeit this is a national designation and so is not covered by the Regulations.
19. As set out above in relation to the main issue, the air quality assessment took all relevant matters into account. A worst-case assessment was undertaken, based on the cremator operating continuously and a dispersion model was used to predict airborne ground level concentrations of pollutants that would be emitted from the stack at the site. The impact of airborne NO_x and SO₂ were assessed as well as acidification and nutrient nitrogen deposition. In predicting the operational impact on the sites, the maximum predicted concentration or deposition flux over the habitat was determined.
20. The assessment concluded that there would be no significant impacts on the protected sites, taking into account the worst-case assumptions. On the basis of the findings of AECOM who agreed with the conclusions of the assessment, the Council's ecology officers had no objection to the proposal. As such, the main parties have indicated there would not be any adverse impact on the protected sites and there is no evidence before me to indicate otherwise, accordingly I have no reason not to agree with the main parties' conclusions. Consequently, even in combination with other plans or projects, I find that likely significant effects of the appeal scheme on the European sites and Ramsar site can be excluded.

Conditions

21. The conditions requested by the Council have been considered and amended as necessary to ensure compliance with the National Planning Practice Guidance and the Framework. In addition to the standard condition that limits the commencement of the planning permission it is necessary to impose a condition identifying the approved plans for clarity.
22. A condition is imposed relating to the submission of an odour management plan in the interest of protecting the living conditions of neighbouring residents. Similarly, a condition is imposed regarding the exhaust stack to ensure emissions are dispersed effectively.

Conclusion

23. For the reasons given above, I conclude that the proposal accords with the development plan read as a whole. Material considerations have not been shown to carry sufficient weight as to indicate a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

F Harrison

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: Site Location 22.17/00F, Section 22.17/09D, Proposed Ground Floor Plan 22.17/12B, Roof Plan Proposed 22.17/14B, Proposed elevations 22.17/15D, Proposed elevations - sheet 2 22.17/16D and Proposed elevations - sheet 3 22.17/17D.
- 3) The development shall not be brought into use until an odour management plan has been submitted to and approved in writing by the local planning authority. The approved management plan shall be implemented prior to the development being brought into use and the development shall not be operated except in complete accordance with the approved management plan thereafter.
- 4) Prior to the development being brought into use, an exhaust stack shall be installed, which shall have a height above ground level of 10.7m, a diameter of 0.3m and shall not be fitted with any cap or cowl that would restrict airflow, other than to improve exhaust gas velocity. The exhaust stack shall achieve an exhaust gas velocity of no less than 12.6m/s. The exhaust stack shall be retained as such thereafter.

*****End of Conditions*****