



Appeal Decision

Site visit made on 11 June 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2024

Appeal Ref: APP/W0734/W/24/3340106

Land adjacent Simcox Court, Riverside Park Road, Middlesbrough

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by JPL Developments Ltd against the decision of Middlesbrough Council.
 - The application Ref is 22/0136/MAJ.
 - The development proposed is described as, '*vacant industrial land to have 45 new light industrial units constructed*'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the above banner heading has been taken from the original application form. The Councils' decision notice does however include associated vehicular access, roads, hardstanding, and landscaping. I have determined the appeal accordingly.
3. A screening direction was issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In exercise of the powers conferred by Regulation 14 (1) and 7 (5) of the EIA Regulations, the Secretary of State directed that the development is not EIA development.

Main Issues

4. The main issues are:
 - Whether the design of the layout is suitable for the proposed development having particular regard to its practicality; and
 - The effect of the proposed development on the highway network and highway safety.

Reasons

Layout

5. The appeal site is a vacant parcel of land on the western side of Riverside Park Road, to the south of Simcox Court. It lies to the north of Intellect Business Park, and to the east of the River Tees and associated riverside footpath.
6. The proposed development seeks planning permission for an industrial development, consisting of 45 units (in four blocks) and its associated vehicular

access, roads, hardstanding, and landscaping. In three of the blocks, the units are proposed in a back-to-back arrangement. One block in the southeast corner of the site consists of a single row of units, not in a back-to-back arrangement. All units have a similar internal layout, accommodating a workshop space, with a small reception, staff, and office space.

7. Three parking spaces would be provided to the front of each unit although the manoeuvrability of vehicles into and out of these spaces would rely on the space in front of the roller shutter doors for the units. Where deliveries and other movements are taking place in front of the roller shutter or where this area is otherwise occupied, this would restrict access into and out of the parking spaces for the units and could result in the spaces not being used. It could also make movements difficult for adjoining units given the manoeuvre required and I have no compelling evidence to the contrary such as swept path analysis. In such circumstances, it is likely that overspill parking would be needed and whilst parking is located around parts of the internal road layout, these are not located in convenient locations for all units. It is therefore likely that those unable to park conveniently would use the internal roads, pavements and strips close to their respective units which could in turn lead to difficulty for navigation, access and manoeuvring particularly those of larger service vehicles which is expected within developments of this nature whilst also impacting upon pedestrian movements in and around the site.
8. It would also place pressure on areas of landscaping which would be lost to vehicle parking/overrunning resulting in a low-quality environment to the detriment of the visual appearance of the site. At my site visit, I observed that such situations already occur at other nearby industrial sites and based on the proposed layout before me, I am not convinced that such situations would not occur on this site.
9. I am aware of the appellants' comments in relation to the likely type of delivery vehicles and operations of unloading including loading times. This would not however overcome the harm identified as the layout would still restrict the access to and from spaces. The type of vehicle being used, and the time taken to unload cannot be assumed nor can it be assumed that the majority of those using the spaces by the units would also be in the units working or that deliveries would be infrequent. The appellant claims that there is capacity within the units to have any loading done within the unit itself negating the need to block the spaces. Information is however limited on this to enable me to consider it further and in any event, this would be difficult to control particularly given that the area to the front of the roller shutters would be the most convenient location for deliveries etc. Whilst such arrangements may be typical for an industrial estate of smaller units, this would not be sufficient to justify the proposals particularly where it restricts access for parking spaces at times where deliveries and other movements are taking place which would have a consequential impact for the wider site as set out above resulting in a low-quality environment.
10. Further, and as referred to above, there has been no vehicular swept path analysis submitted to demonstrate that vehicles can turn and traverse the site including those of larger service vehicles.
11. The scheme shows footways around the site although these are disjointed and broken in many areas by large vehicular accesses and junctions, which would

- not allow ease of pedestrian movement across the site. Pedestrian movements may be limited, and I am aware of the industrial estate aesthetic and need for vehicular access as well as human nature relating to such sites although this would not negate the need to provide well connected footpaths.
12. A number of bin stores are shown across the site, although their position is not conveniently positioned for all units. Rather than taking rubbish to the allocated bin stores, units are likely to store rubbish within their own demise, before moving to the bin stores at a later date or on collection days. Communal bins also add likelihood of no individual responsibility for dealing with rubbish and individual units deciding to have their own refuse storage within their own demise to prevent problems associated with communal waste storage. This is likely to reduce parking spaces indicated and manoeuvrability for vehicles within the site. I appreciate that the locations may be suitable for commercial refuse collection and may minimise vermin in and around units but there is no compelling evidence that this could not be achieved by an alternative scheme that would be more conveniently positioned for all units.
 13. The cycle parking for staff and visitors is also remote from the units that they serve and have limited natural surveillance. This could lead to them not being used even if they are secure and thus would not promote sustainable travel. Whilst they may make the best use of space, this would not make them acceptable and if users choose to park cycles within the unit themselves for the fear of safety, then this would mean that suitable provision is not made which is unacceptable and could lead to difficulties if multiple users did this across the site.
 14. The overall detachment of refuse and cycle provision from the units themselves may again not be uncommon in industrial estates although this would not alter my findings nor be sufficient to justify the proposals which I have assessed on its own merits. I consider that the above points are not an unjustified assumption but rather a realistic and specific concern for the site in question.
 15. For the above reasons, the design of the layout would not be suitable for the proposed development having particular regard to its practicality. The proposed development would therefore be contrary to Policies DC1 and CS5 of the Core Strategy, 2008 (CS) which together, amongst other matters, requires all development proposals to demonstrate a high quality of design in terms of layout, form and contribution to the character and appearance of the area. For the same reasons, the proposed development would also be contrary to the guidance contained within the National Planning Policy Framework (the Framework) relating to promoting sustainable transport and achieving well-designed and beautiful places.

Highway network and highway safety

16. The proposed development is not supported by a Highways Assessment or Travel Plan and whilst the scheme is relying on information provided for a previous scheme which was larger in scale, this application was refused and therefore has no lawful fall-back position. I accept that the proposed development is smaller in scale and potentially has a lesser impact. However, there is no transport evidence to support this assumption. I am therefore unable to make a valid and accurate assessment based on the information before me which relates to a different scheme. I also note the documents are dated from 2018 which is indeed some time ago and it would be a reasonable

- expectation that up to date and accurate information relating directly to the scheme in question be provided opposed to relying on an alternative scheme to ensure an accurate assessment can be had.
17. Given that I do not have the most up to date information relating to the current scheme in question, then I cannot conclude with certainty that the proposed scheme would not have a detrimental impact on the operation of the highway network and highway safety.
 18. The Council claim that the Transport Assessment which was previously refused but relied on in this case, included use of the Council's strategic Aimsun model. Modelling demonstrated that material impacts were seen at a number of different locations affecting both individual junction performance and also journey times across key modelled routes. Such an impact arose as a result of both the proposed development and other cumulative development.
 19. It is understood from the Officers' report that discussions were had during the previous application with a view to securing a proportionate contribution towards a mitigation scheme at the Hartington Interchange. This being based upon a methodology to determine an evidence-based contribution towards the mitigation scheme that would be proportionate to the scale of the development impact on this part of the network. No agreement was reached, and I am aware of the Councils' position that even taking into account the reduced size of the proposed development, a proportionate contribution towards a mitigation scheme at the same location would still be sought.
 20. This is disputed by the appellant taking into account the findings of the previous assessment, lack of evidence supplied by the Council and consideration of other schemes in the area. Policy CS6 of the CS relates to developer contributions and explains that where necessary, to make a scheme acceptable in planning terms, and where directly related to the proposed development, the Council will negotiate contributions towards the cost of providing infrastructure and of meeting social and environmental requirements. The nature and scale of the contribution sought will be determined having regard to a) scale and form of development; b) capacity of existing infrastructure provision; and c) potential impact of the development upon the surrounding area and facilities.
 21. Despite the dispute regarding impact and requirement for contributions, based on the evidence before me and given that I am unable to conclude with certainty that the current scheme would not have a detrimental impact on the operation of the highway network and highway safety, then it has not been satisfactorily demonstrated that developer contributions are not required in the particular circumstances of this case. The general industrial estate and A66 Junctions may have been designed to cope with traffic flows from the well-established Riverside Park Industrial Estate. However, this would not mean that development would not be harmful/have a material impact and without sufficient evidence relating to the scheme in question, such an assessment cannot be made with certainty.
 22. My attention has been drawn to other developments elsewhere and the appellant refers to certain matters of these schemes including layout, highways matters and contributions. None of these approvals however relate to the site in question and their overall scale/nature appears to be different to the appeal I am considering. I also note the officers' comments in determining the scheme

at Tees Amp Site, Riverside Park Road where it is explained that following an officer request, details on the vehicle movements were provided where very few trips are anticipated which was taken into account along with the fact it is linked to existing AV Dawson sites. The Officer goes on to explain that any intensification or major development in the extent by which the site would be used may need to be subject of a more detailed assessment to ensure that frequent trips to and from the site do not harm highway safety along Riverside Park Road. Such a detailed assessment would form part of any future application for the site. In terms of the site at Riverside Park Industrial Estate, Ferrous Road, Middlesbrough, the officer sets out that when assessing the impact of development traffic in the future year scenario, the increase is considered to represent a small percentage, of a scale which could be seen on a daily basis and not of a level which could be classed as severe in accordance with the NPPF. I am also aware that a condition was applied for post development assessment to determine if intervention is required. These schemes have been assessed on their own individual merits having regard to varying factors that has been considered, some of which are different to the current appeal. Further, the appeal I am considering has not been supported by any information regarding the highways and traffic implications of the proposed development in question and thus its overall impact cannot be correctly assessed.

23. I am not therefore convinced that these approved developments are directly comparable to the current appeal scheme nor are they a justification for further development which would be harmful for the reasons set out above.
24. For the above reasons, I conclude that the proposed development has not satisfactorily demonstrated that the proposed development would not have a detrimental impact on the highway network and highway safety. It has therefore not been demonstrated that development contributions are not required in the particular circumstances of this case. The proposed development would therefore be contrary to Policies DC1, CS6 and CS17 of the CS which together, amongst other matters, requires development proposals to provide sufficient information to enable the Council to determine the application. There is also a requirement for development to be located where it will not have a detrimental impact upon the operation of the strategic transport network and will deliver the priorities identified including amongst others, improving connectivity within and beyond Middlesbrough. For the same reasons, the proposed development would be contrary to the guidance contained within the Framework relating to promoting sustainable transport and achieving well-designed and beautiful places.

Other Matters

25. The proposed development may not have a detrimental impact having regard to, principle of development, design, and appearance albeit layout as discussed above, ecology, flooding, noise, land use etc. These are all neutral matters in my overall decision. I am also aware of communications with the Council and changes made to the scheme as well as noting that the Council validated the scheme on the details provided although this would not alter my findings as set out.

Planning Balance and Conclusion

26. The application site is part of a larger site allocation, being identified on the Local Plan Proposals Map for employment purposes and thus I am aware of the benefits in this regard including those of an economic nature. The design of the layout would not however be suitable for the proposed development with particular regard to its practicality. It has also not been satisfactorily demonstrated that the proposed development would not have a detrimental impact on the highway network and highway safety whilst not sufficiently demonstrating that development contributions are not required.
27. The proposed development would therefore conflict with the development plan when read as a whole and there are no material considerations which would outweigh this conflict.
28. I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR