



Appeal Decision

Site visit made on 5 June 2024

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2024

Appeal Ref: APP/B3410/W/23/3332984

**Alpha Anodizing And Polishing Ltd, Bond End, Yoxall, Staffordshire
DE13 8NL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by My Base Investments Ltd against the decision of East Staffordshire Borough Council.
 - The application Ref is P/2023/00137.
 - The development proposed is demolition of commercial works to facilitate the erection of 8 No. dwellinghouses including landscaping and parking.
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Decision

1. The appeal is allowed and planning permission is granted for a demolition of commercial works to facilitate the erection of 8 No. dwellinghouses including landscaping and parking at Alpha Anodizing And Polishing Ltd, Bond End, Yoxall, Staffordshire DE13 8NL in accordance with the terms of the application, Ref P/2023/00137, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matter

2. Since the determination of the application the National Planning Policy Framework has been superseded by the National Planning Policy Framework (2023) (the Framework). However, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.

Main Issues

3. The main issues in this appeal are:
 - (i) whether there is justification for the loss of a B2 business premises and whether the location is suitable for the proposed development;
 - (ii) the effect of the proposed development on the character and appearance of the area in general; and
 - (iii) the effect of the proposed development on highway safety in terms of providing a safe access.

Reasons

Loss of Business Premises & Location

4. The appeal site is a former industrial premises on a parcel of land outside of Yoxall. I understand that the business was liquidated in 2022, which ceased trading before this date, the site is vacant. The site contains substantial industrial buildings with former farmhouses to the front, hardstanding surrounds the buildings, along with industrial/commercial paraphernalia.
5. To the north of the site there is a bus stop, together with a footpath link from the bus stop to the village, providing access to the services and facilities of Yoxall. Yoxall is defined as a Tier 2 Local Service Centre.
6. Policy SP14 of the East Staffordshire Borough Council, Local Plan, planning for Change 2012-2031 (2015) (the Local Plan) seeks to resist the loss of employment uses within the countryside or rural settlements unless there are overriding environmental considerations, or another source of employment is being created nearby.
7. The site has been marketed from March 2022 for 12 months, in that time a new user/operator has not been found, reasons given by the marketing agent suggest this is due to the location, poor quality of the building that would require significant investment and concerns about road access. From my observations during my site visit the premises is vandalised and investment is likely to be required depending on the operational requirements.
8. The industrial premises is large and relatively isolated for a commercial use. Whilst the appellant has provided information relating to the marketing of the site, this is limited.
9. The appellant contends that the proposed development provides overriding environmental benefits as the industrial use is unrestricted in terms of highway movements, noise, air quality, removal of unsightly premises etc. The Council asserts that the site is restricted in terms of hours of operation and deliveries¹.
10. Whilst substantive evidence has not been provided to support either assertion, the planning permission referenced by the Council restricts operating hours and deliveries to between 06:00 – 22:00 Monday to Saturday and no working or deliveries on Sundays. Whilst this restricts the operation of the site, if another user were to operate a B2 use it is reasonable to assume that the environmental effects of a B2 use operating under the restrictions imposed are likely to be more than 8 residential dwellings.
11. Local Plan Policy SP8 confirms that development outside settlement boundaries will only be permitted when one or more of the criteria outlined in the policy is satisfied. The proposed development does not meet the criteria.
12. Policy SP18 of the Local Plan confirms that residential development will be permitted on rural exception sites subject to criteria. The proposed development does not demonstrate that it meets the criteria for a rural exception site. Policy H2 of the Yoxall Neighbourhood Plan echoes Policy SP18.
13. The preamble to Policy SP18 clarifies that *'A rural exception sites policy is only justifiable to provide affordable housing and Traveller sites because they are types of development which cannot compete for available land and which are therefore unlikely to be otherwise deliverable. Such a policy can be effective*

¹ Application ref: CU/16395/009

because landowners will sell their land at less than its value for market housing knowing that market housing is not an option'.

14. The appeal site is an industrial premises, which would have a higher land value than a greenfield site, which would be typically used for a rural exception site. The appeal site could be sold and used for B2 industrial use, therefore whilst the proposed development does not adhere to the criteria in Policy SP18, it is questionable whether the site could realistically be brought forward as a rural exception site, especially in light of the costs that would be associated with the demolition and removal of the industrial buildings, hardstanding and associated paraphernalia.
15. As a previously developed site redevelopment is encouraged by paragraph 89 of the Framework: *'The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist'.*
16. The Council state in their Delegated Report that redevelopment of the site for residential purposes may be considered sustainable given the proximity to the settlement and that the site has previously been in commercial use.
17. Whilst there is conflict with Policies SP8 and SP18 of the Local Plan and Policy H2 of the Yoxall Neighbourhood Plan I give substantial weight to the redevelopment of a vacant industrial site which is well related to Yoxall.
18. On this basis I find that the location is suitable for the proposed development, and that there are overriding environmental considerations to justify the loss of the employment use.
19. There is no conflict with Policy SP14 of the Local Plan and the Framework which seeks to protect employment land and ensure developments are located within areas which are suitable locations.

Character and Appearance

20. The appeal site is within the countryside and comprises industrial buildings which have been vandalised. The proposed development would provide a courtyard style development that can often be found in the countryside; however, the Council raise concern with regard to the elevations of plots 1 and 8 in terms of design.
21. Whilst not a common design of dwellings, plots 1 and 8 would not look out of keeping with the countryside location. The former farmhouse fronting the road would be lost as a result of the proposed development. Whilst the proposed design and layout of the proposed properties are not traditional properties fronting the road the proposed courtyard development would provide an aesthetically pleasing form of development in this rural location, compared to the existing buildings on the site. The proposed development would be read against the adjacent telephone exchange as opposed to any traditional housing form.
22. I find that the proposed development would improve the character and appearance of the area.
23. There is no conflict with Policies SP24, DP1 of the Local Plan, and Policy D2 of the Yoxall Neighbourhood Plan which seek amongst other things for

developments to be high quality, responding positively to the context of the surrounding area.

24. There is no conflict with the Framework which seeks to ensure developments are of good design.

Highway Safety

25. The site is located to the north of a corner junction of the A515, around a relatively sharp bend on a national speed limit road; with the site providing dual accesses onto the A515 as it heads immediately north from the bend.
26. Plots 1-7 would be served by the existing larger access, with a sweeping driveway provided within the site. Plot 8 proposes a gated access located on the existing secondary access, to the southeastern extent of the site
27. The planning permission associated with the site restricts deliveries to the site and hours of operation, notwithstanding this taking a pragmatic view the movements associated with 8 residential dwellings compared to a B2 industrial premises are likely to be reduced.
28. To the north of the site there is a bus stop, together with a footpath link from the bus stop to the village, providing access to the services and facilities of Yoxall.
29. I have taken into account that opportunities to maximise sustainable transport options will vary between urban and rural locations, and that the industrial use is likely to generate trips by motor vehicle and HGVs.
30. I find that the proposed development would not have an unacceptable effect on highway safety.
31. There is no conflict with Policies SP1 and SP35 of the Local Plan which seek amongst other things to ensure developments do not have an adverse impact on the transport and highway network and provides adequate access for all necessary users.
32. There is no conflict with the Framework which seeks to ensure developments have an acceptable impact on highway safety.

Conclusion and Conditions

33. For the above reasons I conclude that this appeal should be allowed.
34. I have imposed a standard condition relating to the commencement of development and a condition specifying the relevant plans as this provides certainty. In order to safeguard the character and appearance of the area I have imposed conditions concerning materials, landscaping and removal of permitted development rights.
35. I have imposed conditions relating to trees, ecology and Great Crested Newts to safeguard biodiversity at the site.
36. To safeguard the living conditions of future occupants I have imposed conditions relating to noise and contamination. In the interest of highway safety, I have imposed conditions relating to parking and visibility splays.

C Pipe

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 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 Plan Drawing 31080 – 01

Demolition Plan Drawing 31080 – 02

Proposed Site Plan Drawing 31080 – 03 Rev C

Plot 1 Plans and Elevations Drawing 31080 – 04 Rev A

Plot 2 & 3 Plans and Elevations Drawing 31080 – 05

Plot 4 & 5 Plans and Elevations Drawing 31080 – 06

Plot 6 & 7 Plans and Elevations Drawing 31080 – 07

Plot 8 Plans and Elevations Drawing 31080 – 08 Rev A

Arboricultural Impact Assessment AEL-18576 by Apex Environmental

Bat Surveys – Presence/Likely Absence Report AEL-18576 by Apex Environmental

Preliminary Ecological Appraisal AEL-18576 by Apex Environmental

Reasonable Avoidance Measures for Great Crested Newts by Apex Environmental

Tree Constraints Plan AEL 18576-A

Tree Impact Plan AEL-18576

Tree Protection Plan AEL-18576

Tree Shadow Plan AEL-18576

Tree Works Plan AEL-18576

Drainage Strategy Report by SA Consulting

- 3) No works above foundation level shall be carried out until details of walling and all materials to be used externally have been submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the details as approved.
- 4) No development shall take place until a scheme of landscaping, boundary treatments, and measures for the protection of trees and hedges to be retained during the course of the development have been submitted to and approved in writing by the Local Planning Authority. This should include specific details of replacement trees to be planted in mitigation for tree removal at a ratio of 2:1.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) 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 unless the Local Planning Authority gives written consent to any variation.
- 6) All existing trees and hedges shown as being retained on the plans hereby approved shall be protected in accordance with the Tree Protection Plan approved under Condition 2 above. Such protection shall be erected before development commences and shall be retained at all times whilst construction work is taking place.
- 7) The development hereby approved shall be implemented strictly in accordance with the recommendations/mitigation measures provided in the Preliminary Ecological Appraisal by Apex Environmental approved under Condition 2 above.
- 8) The development hereby approved shall be implemented strictly in accordance with the recommendations/measures stated in the supporting document: Reasonable Avoidance Measures for Great Crested Newts by Apex Environmental approved under Condition 2 above.
- 9)
 - a. A desktop study/tier 1 preliminary risk assessment report shall be prepared and submitted for approval. This should document the previous history of the site and surroundings, identifying the potential sources of contamination and the impacts on land and/or controlled waters relevant to the site. A Conceptual Site Model should be produced for the site which should identify all plausible pollutant linkages.
 - b. Where the preliminary risk assessment report has identified potential contamination, an intrusive site investigation shall be carried out to establish the full extent, depth and cross section, nature and composition of the contamination. Ground gas, water and chemical analysis, identified as being appropriate by the desktop study, should be carried out in accordance with current guidance using UKAS/MCERTS accredited methods. The details of this investigation (including all technical data) shall be submitted to the Council, as tier 2/3 generic/detailed quantitative risk assessment report(s), for approval prior to any site demolition, remediation or construction works.
 - c. In those cases where the tier 2/3 reports have confirmed the presence of contamination, a Remediation Strategy shall be submitted to this Department (for approval prior to works) detailing all feasible remediation options and the exact manner in which the chosen remediation works are to be carried out. The Strategy should also include details of verification testing including any long term monitoring/maintenance that will need to be carried out once the works have been completed.
 - d. If during remediation works, any contamination is identified that has not been considered within the Remediation Strategy, then additional remediation proposals for this material shall be submitted to this Department for written

approval. Any approved proposals should, thereafter, form part of the Remediation Strategy.

e. The development shall not be occupied until a verification report has been submitted to and approved in writing by this Department. A Verification Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Strategy in order to demonstrate the pollutant linkages have been broken.

- 10) Prior to the first occupation of any dwellings on site a noise assessment shall be undertaken to demonstrate the proposed eight dwellings meet the requirements of BS 8233:2014 Guidance on sound insulation and noise reduction for buildings. If the noise assessment identifies that the internal noise levels exceed BS 8233, then a mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority and then implemented prior to the first occupation of the dwellings.
- 11) Prior to the first occupation of any dwelling hereby approved details of the visibility splay at both access points shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority.
- 12) Prior to the first occupation of any dwelling hereby approved, the respective dwelling shall be provided with car parking as laid out in the Proposed Site Plan drawing 31080 – 03 Rev C approved under Condition 2 above. The parking shall be laid out, hard surfaced and drained and once the dwelling is occupied, maintained as such thereafter.
- 13) Notwithstanding the provisions of Part 1 (Classes A-H) of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) the dwellings hereby permitted shall not be enlarged, improved or altered, nor shall any building, enclosure, swimming or other pool, hard surface, plant or structure required for a purpose incidental to the enjoyment of the dwellinghouse be erected or installed unless planning permission has first been granted by the Local Planning Authority.