

Appeal Decision

Site visit made on 10 September 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th September 2024

Appeal Ref: APP/F3545/W/24/3341753

Moonhall Business Park, Helions Bumpstead Road, Haverhill CB9 7AA

- 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 Mr J Cooper (GBM Building Services) against the decision of West Suffolk Council.
 - The application Ref is DC/23/1928/FUL.
 - The development proposed is described as proposed new factory unit.
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Decision

1. The appeal is allowed and planning permission is granted for proposed new factory unit at Land Adjacent to Unit 8, Moonhall Business Park, Helions Bumpstead Road, Haverhill, Suffolk in accordance with the terms of the application, Ref DC/23/1928/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. In allowing the Decision I have used the address from the Council's decision notice as it more accurately reflects the location of the site.
3. On 30 July 2024 the Government published a consultation on proposed reforms to the Framework and a written ministerial statement. While these proposed changes can only be given limited weight at this stage, those parts most relevant to the appeal are not proposed to be amended. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no parties interests would be prejudiced by my taking this approach.
4. West Suffolk Council became a single authority in April 2019. The development plans for the previous local planning authorities were carried forward to the new council by regulation. For the purpose of this appeal the relevant development plan comprises the Forest Heath Core Strategy 2010 (CS), and the Forest Heath and St Edmundsbury Local Plan: Joint Development Management Policies Document 2015 (JDMPD).

Main Issues

5. The main issues are:

- i) whether a suitable location for the proposed use;
- ii) the effect of the proposed development on the character and appearance of the area, with particular regard to trees; and
- iii) whether the appeal site would be at an unacceptable risk from contamination.

Reasons

Location and use

- 6. The appeal site lies within an established industrial estate where I observed a variety of businesses. Furthermore, the Moonhall Business Park lies within the wider Haverhill Industrial Estate, which Policy HV9(c) of the CS identifies as being a suitable location for a range of general employment uses within Classes B1, B2 and B8¹.
- 7. Even though the precise nature of the business is unknown at present, the evidence indicates that the proposal would fall within a use compatible with the allocation of the industrial estate. Furthermore, in the absence of residential or other more vulnerable uses nearby, there appears therefore to be no reason why the proposed use would not be acceptable to be accommodated within the proposed building on the appeal site.
- 8. The Council has suggested conditions restricting the hours of operation and noise levels that I concur would be reasonable and necessary to impose to avoid environmental harm. In the absence of evidence of material harm arising from the proposed use, I am satisfied that the appeal site represents a suitable location for the proposal. In that regard there would be no conflict with Policies HV9 and CS2 of the CS and Policy DM14 of the JDMPD. Nor do I find conflict with the Framework which seeks to promote an effective use of land while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Character and appearance, including trees

- 9. The appeal site is located within an industrial estate where I observed variation in terms of the scale, design and layout of the units, including the spacing between buildings.
- 10. The proposed building would be smaller than some of the existing units located on the industrial estate. Even so, it would be reflective of the general form and simple design of buildings within the locality. Having regard to the immediate context of the appeal site, wherein buildings are relatively close together, the proposal would be nestled into a corner of the industrial estate and thus would not be harmfully out of character with the prevailing pattern of development in the locality. Furthermore, the appeal site is set lower than

¹ The use classes order has been amended since adoption of this policy. Class B1 was deleted and subsumed into a new E Class (commercial, business and service) of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

the adjacent highway, and much of the proposed building would have limited visibility from the street. Accordingly, the proposal would not be an incongruous feature within the wider streetscene.

11. The majority of the appeal site is laid to hardstanding. Raised grassed areas are present to the southern and western boundaries of the site, which included brambles and self-seed scrub planting. Mature landscaping, present to the west and south of the appeal site, adjacent to the highway boundary, limits views into the appeal site.
12. From the evidence before me the trees surrounding the appeal site are not formally protected. I have no substantive evidence before me that the existing trees adjacent to the highway boundary would be detrimentally affected by the proposals such that it would lead to a detrimental erosion of this peripheral landscaping. Whilst the existing planting, that lies beyond the appeal site boundary, would have a visually softening effect, landscaping can rarely be relied upon in the long term with regards to its maintenance, retention and survival. Even if the proposal were visible within its wider context due to the loss of some landscaping, the appeal scheme would not be unduly intrusive because of the reasonable level of containment arising from the topography beyond the appeal site. Furthermore, the adjoining built context of the existing industrial estate is of a similar scale and character to the built development proposed such that the changes arising from the appeal proposal would not be unexpected features.
13. For the reasons stated, I find that the proposal would not harm the character and appearance of the area, with particular regard to trees. In this regard it would comply with Policy DM2 of the JDMPD which, amongst other things, seeks to produce designs that respect the character, scale, density and massing of the locality. Nor do I find conflict with Policy CS3 of the CS which seeks new development to create and contribute to a high quality, safe and sustainable environment. I find no conflict with Policies DM2, DM10 and DM13 of the JDMPD which collectively seek to avoid the loss of landscaped areas which, amongst other things, make a significant contribution to character and appearance.

Contamination

14. The Framework requires that a site is suitable for its proposed use taking account of ground conditions, including from pollution arising from previous uses and that adequate site investigation information is presented. Policy DM14 of the JDMPD includes the requirement for development proposals to ensure any risk of contamination is identified and adequately managed. In addition, the Planning Practice Guide² (PPG) advises that developers should provide proportionate but sufficient site investigation information (a risk assessment) if there is a reason to believe contamination could be an issue.
15. The appeal site is largely laid to hardstanding where I observed vehicle parking. The submitted Land Contamination Questionnaire and Groundsure Enviro Insight report have not identified any significant historical contamination risks either upon, or proximate to the appeal site. Therefore,

² Paragraph: 007 Reference ID: 33-007-20190722

based on the evidence before me any contamination identified is unlikely to be a significant factor to preclude development.

16. Applying a proportionate approach to the low level of potential contamination risk and the use of the proposed building, subject to the imposition of an appropriately worded condition for the investigation and remediation of contamination, I have no reason to conclude that the proposed development would not be safe for future users of the building with respect to ground contamination. Accordingly, no conflict would arise with the requirements of Policy DM14 of the JDMPD. Nor would conflict arise with the objectives of Policy CS2 of the CS or the Framework in this regard.

Other Matters

17. I have considered all other matters raised, in particular parking and manoeuvring. Suffolk County Council, as Local Highway Authority, raise no objection to the proposal, subject to the imposition of conditions in relation to car parking, refuse storage, cycle storage and EV charging points. Based on the evidence before me I have no reason to reach a different view in this regard.
18. Further to interested parties concerns regarding land ownership any such disputes fall outside my consideration in this appeal.

Conditions

19. The Council has suggested several conditions. I have included those which meet the six tests set out in the Framework and the PPG, rewording, where necessary, for clarity. In addition to the statutory commencement condition, a condition is necessary to ensure that the development complies with the submitted plans in the interests of clarity.
20. A pre-commencement condition regarding contaminated land is necessary in order to minimise risks to human health and the environment to ensure that the development accords with the development plan and the Framework in these regards. For preciseness, and conciseness, I have merged the suggested conditions by the Council. The appellant has agreed to the pre-commencement conditions set out in the conditions schedule below, and also to their wording.
21. In the interest of highway safety, conditions are necessary to secure on-site parking and refuse storage. A requirement for cycle parking and electric car charging is included to promote sustainable travel. Conditions regarding sound insulation, noise levels, hours of operation and external lighting are necessary to avoid environmental harm.

Conclusion

22. For the reasons given above, I conclude that the proposal would accord with the development plan and the Framework. The appeal is therefore allowed.

R Gee

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be commenced no later than 3 years from the date of this permission.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents: Location & block plan 9235/23/2 and Proposed elevations & floor plans 9235/23/1.
3. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures), shall have been submitted to and approved in writing by the local planning authority.

If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and agreed timescale and a verification report shall be submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed for approval in writing by the local planning authority.

4. Prior to the first occupation of the development hereby approved, the areas within the site shown in Drawing No. 9235/23/2 for the purposes of manoeuvring and parking of vehicles, including electric vehicle charging infrastructure, shall be provided, and thereafter, that areas shall be retained and used for no other purposes.
5. Prior to the first occupation of the development hereby approved, details of secure, lit and covered cycle storage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.

6. Prior to the commencement of above ground works, details of the areas to be provided for the storage and presentation for collection/emptying of refuse and recycling bins shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
7. Prior to first use of the building hereby approved, details shall be submitted to and approved in writing by the local planning authority, of the sound insulation of the building envelope, any glazing elements and any external mechanical plant, equipment or machinery and any other mitigation measures, as appropriate. Details shall demonstrate that noise from uses and activities is contained within the unit and shall not exceed the existing background noise level as determined by a suitable qualified or experienced noise specialist. Approved details shall be implemented prior to first use of the development and thereafter be permanently retained.
8. The cumulative rating level of noise resulting from the operation of the use hereby approved, including any external mechanical plant, equipment or machinery and any internal plant, equipment or machinery, shall not exceed the representative background noise level at the boundary of the nearest and / or most affected noise sensitive receptor(s) in order to prevent any adverse impact. The measurements / assessment should be made according to BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound' at the nearest and / or most affected noise sensitive receptor(s), with all internal and external plant, equipment or machinery operating together at typical maximum loads and be inclusive of any penalties for tonality, intermittency, impulsivity or other distinctive acoustic characteristics.
9. The use hereby permitted shall only take place between:
8:30am to 5:30pm Mondays to Fridays
8:30am to 1pm Saturdays
With no use permitted on Sundays or Bank / Public Holidays.
10. Any external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals (ILP) Guidance Note GN01/21 'The Reduction of Obtrusive Light'. Lighting should be minimised, and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.

*****End of Schedule*****