



Appeal Decision

Site visit made on 11 February 2025

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 February 2025

Appeal Ref: APP/U2750/W/24/3355856

5 Ellerbeck Way, Stokesley Business Park, Stokesley, North Yorkshire TS9 5JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Jack Tremlett of Cre8ic Ltd against North Yorkshire Council.
 - The application reference is ZB24/01323/FUL.
 - The development proposed is an E V end of life processing facility (Sui Generis).
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Decision

1. The appeal is dismissed and planning permission for an E V end of life processing facility (Sui Generis) is refused.

Preliminary Matters

2. The description of development in the banner heading above is the one given by the Council and has been used by the parties in the appeal process. I have used this description in my decision rather than the one on the application form as it more concisely describes the appeal scheme.
3. The appeal has been made following the Council's failure to determine the application within the required period. I have had regard to the key issues identified in the Council's appeal statement and planning report submitted as part of the appeal together with the appellant's submissions and comments from interested parties in formulating the main issues.

Main Issues

4. The main issues are:
 - the effects of the proposal on the safe and efficient movement of vehicles and pedestrians at the site;
 - the effects of the proposal on health and safety; and
 - whether appropriate provision has been made to secure site drainage.

Reasons

5. The appeal site is within the Stokesley Business Park, which is identified as a key employment location in Policy EG2 of the 2022 adopted Hambleton Local Plan (the Local Plan). Such locations are a focus for employment development. The Council identifies that a range of uses are supported development within the business park such as offices to carry out operational or administrative functions,

research and development of products or processes, industrial processes, general industrial or storage and distribution. The type of development proposed would therefore be consistent with the other uses in the business park. However, Policy EG2 also requires that proposed uses are compatible with adjacent land uses and do not prejudice the operation, viability, or future development of other businesses.

Safe and Efficient Movement of Vehicles and Pedestrians

6. The proposal would involve an increase in the number of vehicles entering and exiting the site. The appellant's information set out in an email to the Council on 4 December 2024 estimates that this would amount to an additional four vehicles a month, comprising two vehicle deliveries and two waste removal trips.
7. However, I find that the appellant's information is unclear in terms of understanding how delivery and collection vehicles would be managed within the appeal site. For example, it is stated that all vehicle deliveries and unloading would take place within the shared service yard, which is partly owned by the appellant. Yet it is also identified that the larger area for vehicle turning and manoeuvring is not under their control and unrestricted use of this area for vehicle turning would not be assumed without prior agreement. Neither of these areas are specifically identified on the submitted plans. The appellant's information also states that vehicles could be unloaded directly into the building if necessary.
8. Based on the submitted evidence, I am not persuaded that vehicles associated with the development would be able to enter and/or leave the site in a forward direction or that there would be no need for lengthy vehicle reversing manoeuvres. Indeed, the appellant's information identifies that vehicles would reverse into the rear service yard from a space between the car parks that belong to the appellant and the adjacent user. I appreciate that the number of vehicle movements associated with the development would likely not be large. Nonetheless, the access road is shared with the adjacent user and the site access is onto one of the main roads through the business park.
9. I note the lack of objection from the Highway Authority. However, in my view there remains a lack of clarity about how vehicle movements associated with the development would be managed within the site. I am not therefore persuaded that a condition requiring compliance with the details in the email of 4 December 2024 would be sufficiently precise.
10. Consequently, from the evidence that is before me, I conclude that the proposal has failed to demonstrate that it would not have an unacceptable impact on the safe and efficient movement of vehicles and pedestrians at the site. The proposal would therefore conflict with the highway safety requirements of Policy IC2 of the Local Plan. There would also be conflict with Local Plan Policy EG2 where it states that proposals must not prejudice the operation, viability, or future development of other businesses.

Health and Safety

11. Batteries have the potential to cause harm to the environment, for example, if the chemical contents escape from the casing. The consultation response from the Environment Agency¹ identifies that currently, DEFRA does not consider the need

¹ dated 13 September 2024

to regulate the operation of battery energy storage systems facilities under the Environmental Permitting Regulations regime. However, battery storage and treatment fall within the scope of several of the UK's regulatory regimes other than the Town and Country Planning system. This includes the producer responsibility regime, the duty of care requirements of the Environmental Protection Act 1990, and the Waste Batteries and Accumulators Regulations 2009 (as amended). The information within the Environment Agency's consultation response indicates that these regimes seek to ensure that the handling of batteries is done in a safe manner to limit risks to human health and the environment.

12. The National Planning Policy Framework states that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these separate regimes will operate effectively.
13. Consequently, I see no reason to duplicate controls that would be in place through waste legislation to cover the handling of the batteries. If additional operations or facilities are required to ensure compliance with the obligations imposed by the other regimes, and a change to the appeal site is required to accommodate these, then a further planning application may be required.
14. North Yorkshire Fire and Rescue Service was consulted on the application, and its response was submitted by the Council as part of its appeal documentation. The Fire and Rescue Service raises no objection to the proposed development, stating that it will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the service.
15. However, from the evidence before me, I am unclear about the process that may be required in this case for a statutory Building Regulations consultation. Consequently, notwithstanding my position above about not duplicating other regimes, in my view there would be a justification for addressing fire safety matters through the appeal proposal given the lack of clarity on this particular matter. In this case therefore and being mindful of the concerns raised about the proposed storage of material on the site and the effect this may have on the operation of neighbouring uses, in my view a condition requiring a fire safety management plan would be necessary to make the scheme acceptable and to accord with Policy EG2 of the Local Plan.
16. With this condition in place, I conclude that the proposal would be acceptable with regard to health and safety, and there would be no conflict with Policy EG2 of the Local Plan.

Drainage

17. An interested party has raised concerns about the provisions made to ensure that appropriate drainage systems would be in place. Environmental permitting requirements have been specifically highlighted.
18. The appellant identifies that a permit would be required from the Environment Agency to receive and process end of life vehicles. Conditions of the permit would need to be addressed by the appellant. These requirements are governed by a regime separate to the Town and Country Planning system. As stated above,

planning decisions should assume that these separate regimes will operate effectively.

19. The site activities plan (C8-ELVATF-0003 rev C) shows that the waste and un-depolluted vehicle storage areas and the quarantine area would be on an impermeable surface. Other identified activities would be undertaken within one of the existing buildings on the site. The application form sets out that waste fluids, end of life vehicle shells and contaminated waste would be stored in bunded areas.
20. The consultation response provided by Northumbrian Water² raises no concerns but does advise that the proposed process may require a trade effluent application for the disposal of wastewater to the sewerage network. Such an application would be under a separate regime to the Town and Country Planning system and so the same considerations as set out above would apply.
21. Accordingly, I conclude that appropriate provision would be made to secure site drainage. As such, there would be no conflict with Policies RM1 and RM3 of the Local Plan which seek to ensure that there would be no adverse impact on or unacceptable risk to the quantity or quality of water resources, and that surface water and drainage are managed in a sustainable manner.

Other Matters

22. The proposal would involve only limited external changes to the existing building and associated outside areas. Such changes would be in keeping with the character and appearance of the business park. The submitted evidence has not identified any biodiversity or heritage assets that would be harmed by the proposal.
23. The Environment Agency's position is that the proposal would pose no flood risk. The Council confirms that the area of the proposed operations would be within Flood Zone 1 and does not raise concerns about flood risk. Based on the evidence before me, I have no compelling reason to come to a different conclusion.
24. An interested party has raised concern that some elements of the proposal would require encroachment onto their land. However, the site activities plan (C8-ELVATF-0003 rev C) shows the various elements of the proposal within the red line application boundary. Vehicle manoeuvring is addressed above.
25. With the growth in electric vehicles, there is an increased need for effective end of life management which the proposal would make a modest contribution to. The appellant would use the development to explore methods for re-using valuable components from these vehicles which would be consistent with the waste hierarchy. Additionally, there would be some economic benefits from the proposal, with the application form stating an increase in employees of 2.2 full time equivalent.

Planning Balance and Conclusion

26. The proposal would be a relatively small-scale operation at an existing business within an identified key employment location. I find that there would be no unacceptable harm to the health and safety of other users of the business park

² dated 20 November 2024

and that appropriate drainage provision would be made to ensure the protection of the quality and quantity of the water environment. I am satisfied that there would be no harm to the natural and historic environments or to the character and appearance of the area and there would not be an increased risk of flooding. However, a lack of harm is neutral in the planning balance.

27. There would be benefits to the proposal in terms of the management of end of life EV vehicles and associated opportunities for research and development into the recycling of such vehicles. This weighs positively for the proposal as does the additional employment that would be created.
28. However, from the evidence that is before me, I am not able to conclude that it would be possible to undertake the development proposed without unacceptable harm being caused to the safe and efficient movement of vehicles and pedestrians. This is a matter of overriding concern and to this extent there would be conflict with the development plan when considered as a whole. Therefore, the appeal should be dismissed.

F Wilkinson

INSPECTOR