



Appeal Decision

Site visit made on 1 June 2021

by **Diane Cragg DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 July 2021

Appeal Ref: **APP/F4410/W/21/3268524**

Land at South End Road, Thorne DN8 5QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr James and Albert Clarke against the decision of Doncaster Council.
 - The application Ref 19/01500/OUT, dated 13 June 2019, was refused by notice dated 8 January 2021.
 - The development proposed is outline application for mixed use development to include B1 (Business), D1 (Non-residential institutions), D2 (assembly and leisure) uses in addition to A3 use (Food and drink) ancillary to the office unit (approval being sought for access).
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Decision

1. The appeal is allowed, and planning permission is granted for outline application for mixed use development to include B1 (Business), D1 (Non - residential institutions), D2 (assembly and leisure) uses in addition to A3 use (Food and drink) ancillary to the office unit (approval being sought for access) at Land at South End Road, Thorne DN8 5QP in accordance with the terms of the application ref 19/01500/OUT dated 13 June 2019 and subject to the conditions in the attached schedule.

Procedural Matters

2. The description in the banner heading above is taken from the appeal form as the parties agree that the description has changed since the application was submitted to the Council. I have determined the appeal accordingly.
3. The appeal scheme relates to an outline proposal, with access to be considered at this stage, and with all other matters reserved for future consideration. I have considered the appeal accordingly. A plan has been submitted as part of the appeal which indicates how the proposed development could be accommodated on the site. I have taken this plan into account for indicative purposes only.
4. On 1 September 2020 the Town and Country Planning (Use Classes) Order 1987 was amended and as part of this a new Class E was created which incorporates former Use Classes A1, A2, A3, B1 and some uses that were formerly in Class D1 and D2. However, as the application was made before this date, I must determine the appeal on the basis of the Use Classes Order that existed at the time the application was made.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area.

Planning Policy

6. The Council is currently in the process of producing the Doncaster Local Plan 2015-2035 (the DLP). The Council is aiming to adopt the emerging plan by summer/autumn 2021. Paragraph 48 of the National Planning Policy Framework (the Framework) states that weight can be given to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections and the degree of consistency to the Framework. The policies in the emerging plan were not included in the reasons for refusal and in their Statement of Case the Council attaches only limited weight to these policies. I note the Council indicates that the site is to be reallocated as countryside in the emerging plan. However, as I have limited information before me as to any outstanding objections to the policies of the emerging plan, I give only limited weight to the emerging plan in my determination of this appeal.
7. The Thorne and Moorends Neighbourhood Plan (NP) has reached Regulation 14 stage. The Council confirms that the appeal site is not allocated in the NP. The Council refers to Policy DDH3 of the NP concerning development and design and Policy T3 which seeks to safeguard an area of land around Thorne South Station for additional car parking. As the NP has yet to be examined, I attach limited weight to the policies within it.
8. The development plan for the area includes the Core Strategy 2011-2028 adopted May 2012 (Core Strategy) and the saved policies of the Doncaster Unitary Development Plan (UDP).
9. The principle of the development is not disputed between the main parties. The site forms part of a site that was one of three allocated for mixed-use development under Policy RP7 of the Doncaster Unitary Development Plan 1998 (the UDP). Policy RP7 c) states that the South End Marina and land to the south of South End Road will be developed for housing, boatyard works, marina, public open space, leisure, small scale commercial uses and light industrial workshops. The text to the policy acknowledges that the allocated sites will contribute greatly to the regeneration of the town by providing jobs, homes, and leisure in an attractive setting. High quality proposals will be encouraged which introduce well integrated mixes of land uses at an appropriate scale taking account of these important waterside settings.

Reasons

10. The appeal site is part of a larger open field located between Blue Water Marina and the North Eastern Railway's Hull and Doncaster Branch. To the rear of the site is Boating Dyke which separates the site from the Stainforth and Keadby Canal part of the Sheffield and South Yorkshire Navigation. There is an existing vehicular access into the site from the appeal site's frontage with South End.
11. Policy CS14 of the Core Strategy requires high quality design that contributes to local distinctiveness. Development should respond positively to existing site features and integrate well with its immediate surroundings. This is consistent with the Framework where it seeks to ensure that development is sympathetic

- to local character and history, including the surrounding built environment and landscape setting and where it seeks to ensure that development establishes or maintains a strong sense of place.
12. The appeal site boundaries are defined by the railway embankment with protective fencing on the railway boundary and sparse but mature hedging to the road frontage. The dyke to the rear boundary has some relatively dense planting beyond it and there is an open boundary to the field that is outside the appeal site but part of the wider allocation under Policy RP7. There are no features of note within the appeal site.
 13. The residential properties opposite the appeal site are set in relatively large plots with hedged boundaries to the road frontage. The Blue Water Marina has a substantial frontage to South End. This boundary and the boundary to the north adjacent to the field are enclosed by significant landscaping and the marina has limited visibility from the road frontage. The appeal site and the adjacent field are bordered by a grass verge next to the road with some hedging to the site frontage. Due to the generally low density of adjacent development, the hedged boundaries and because the appeal site and field are undeveloped, South End has a rural character and appearance. Nevertheless, approaching from the north views across the appeal site are restricted by the railway bridge. From the south the railway embankment and bridge provide a backdrop to the appeal site and views through it to the canal moorings are filtered by sections of hedging along the South End road frontage.
 14. The Council is concerned that the development would not be in keeping with surrounding land uses. There is extensive residential development further along South End and a small number of dwellings directly opposite the appeal site. However, the railway line, the Blue Water Marina and the canal are all adjacent to the site. The proposed mix of commercial and leisure uses proposed within the site would be compatible with the surrounding land uses.
 15. The proposed access would be a more formal arrangement than the current field access. Even so, because of its proposed location close to the railway bridge it would not be a significant feature of the road frontage. South End is a main through route for traffic and the anticipated traffic levels would not change the overall character of the road with most traffic anticipated to travel to the site from the north. The additional traffic movements would not detract from the character of the area.
 16. The indicative site layout suggests buildings to one side of the site and parking and internal roads on much of the remaining land, with small pockets of landscaping and a small outdoor area. The indicative designs are of modern wood clad structures of modest scale which could sit comfortably in a more rural setting. Whilst the layout suggests a high degree of hard surfaces and fencing to the field boundary these details are indicative. The appeal site is part of a larger allocation for mixed-use development and therefore a change to the site's character is anticipated. The detailed design for the development of the site would be considered at reserved matters stage against relevant development plan policies and having regard to the appeal site's context. The access is for consideration as part of the proposals and these access details would sit acceptably within the street scene, the prevailing character of the area and would integrate into the immediate surroundings.

17. Therefore, overall, I conclude that the development would not harm the character and appearance of the area and would accord with Policy CS14 of the Core Strategy. It would also accord with the Framework.

Other Matters

18. I have taken account of local resident's concerns related to drainage and flooding. I have noted concerns that flooding occurs under the railway bridge close to the entrance to the site. However, I note that the statutory agencies and the Council do not object to the proposal on these grounds. As such, whilst I acknowledge these concerns, I have no reason to conclude that foul and surface water drainage and flood risk could not be adequately provided for or managed through the imposition of a suitably worded conditions.
19. I also acknowledge the concerns raised about the visibility at the access point, congestion, and potential accidents because of additional traffic, and the limited access to the site from the south. Nevertheless, the Highway Authority does not object to the proposal and I have no substantive evidence before me to indicate that the proposal would cause unacceptable impacts to highway safety.
20. Local residents, and Councillors have also expressed a wide range of concerns including, but not limited to, the following: outline nature of the proposal, ecology, limited provision of jobs, land not designated for business in the local plan, property values. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I recognise the concerns of residents and Councillors, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

Conditions

21. I have provided the parties with an opportunity to comment on a list of conditions. My consideration has taken account of paragraph 55 of the Framework and advice in the Planning Practice Guidance. I have had regard to the Government's intention that planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. The Appellant has confirmed acceptance in writing of those pre-commencement conditions that have been imposed.
22. All matters apart from access were reserved for later submission and the wording of the conditions reflects this. The standard time limit conditions for outline applications has been applied and I have imposed a condition requiring the development to be carried out in accordance with the site location plan and highways plans so that there is certainty regarding the site area and approved highway details. I have removed reference to the indicative elevations and floor plans as appearance, landscape layout and scale are reserved for future consideration and these matters will be determined on their own merits having regard to policies in the development plan.
23. To prevent the development being an inconvenience to nearby residents during the construction phase it is necessary to ensure that construction is carried out

in a considerate manner. A construction method statement is necessary for this purpose before development commences. A separate construction impact management plan is not required.

24. A noise condition is required to protect adjacent properties from fixed plant and machinery noise. I have amended the noise condition accordingly which is necessary to protect the living conditions of the nearest residential dwellings.
25. A condition is necessary to ensure that the mitigation and enhancement measures set out in the Preliminary Ecological Appraisal Survey are implemented and net gains in biodiversity are achieved to conserve and enhance the natural environment.
26. It is necessary to ensure drainage details are submitted to ensure that the site is properly drained. Network Rail requirements have been included in a single condition. Flood risk conditions are necessary to protect future occupants of the site and to reduce the risk of flooding in an area of high flood risk.
27. Given the difference in level between the appeal site and the railway line I am satisfied that Armco barriers are not required adjacent to Network Rail land. For similar reasons an external lighting condition is not necessary to protect train drivers from being dazzled by light.
28. I have not imposed conditions relating to materials and landscaping as these will be considered at reserved matters stage.

Conclusion

29. For the reasons given above and having regard to the evidence before me, I conclude that the proposals would accord with the development plan. Therefore, the appeal is allowed.

Diane Cragg

INSPECTOR

Schedule of Conditions

Outline Timing/Plans

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority (LPA) before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the LPA not later than 3 years from the date of this permission.

- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - a. Streetwise site location plan
 - b. Highway Plan Swept Path Analysis Access LTP/3896/T1/01/01/B
 - c. Highway Plan Swept Path Analysis Turning Area LTP/3896/T1/02/01/B
 - d. Highway Plan Visibility Splay LTP/ 3896/C1/01/01/B
 - e. Highway Plan Preliminary Access Design LTP/ 3896/P1/01/01/B

Contamination

- 5) Unless otherwise agreed by the LPA, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the LPA in writing until part 4 has been complied with in relation to that contamination.

Part 1: Site Characteristics

A Phase 1 desk study shall be carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk study shall establish a 'conceptual model' of the site and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). Two full copies of the desk study and a non-technical summary shall be submitted to the LPA for approval prior to proceeding to further site investigation.

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether it originates on the site. The contents of the scheme are subject to the approval in writing of the LPA. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the LPA. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; (iii) an appraisal of remedial options, and a proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the management of Land Contamination, CLR 11'.

Part 2: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the LPA. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part 3: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the LPA. The LPA must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the LPA.

Part 4: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the LPA. An investigation and risk assessment must be undertaken in accordance with the requirements of Part 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2, which is subject to the approval in writing of the LPA. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the LPA in accordance with Part 3.

- 6) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the LPA prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the LPA prior to any soil and soil forming material being brought on to site.

Construction Method Statement

- 7) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the LPA. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
- i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. wheel washing facilities;
 - vi. measures to control noise and the emission of dust and dirt during construction;
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Drainage

- 8) The development hereby approved shall not commence until details of the foul, surface water and land drainage systems and all related works necessary to drain the site have been submitted to and approved by the LPA. These works shall include measures to ensure that surface water run-off is diverted away from Network Rail assets. The approved scheme shall be implemented to the satisfaction of the LPA prior to the occupation of the development.
- 9) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 10) Surface water run-off from hardstanding (equal to or greater than 800 square metres) and/or communal car parking area (s) of more than 50 spaces must pass through an oil, petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the LPA, prior to any discharge to an existing or prospectively adoptable sewer.

Flood Risk

- 11) The development shall be carried out in accordance with the submitted flood risk assessment compiled by EWE Associates Ltd (Ref: 2019/2426 Rev C) dated September 2019 and the following mitigation measures it details:
- a. Finished floor levels shall be set no lower than 3.53 metres above Ordnance Datum (AOD) as indicated in section 5 of the FRA.
 - b. A first-floor refuge above the critical flood level of 4.4mAOD to be constructed as stipulated in section 5 of the FRA.

c. Flood resilient design measures to be incorporated into the final design to a height of 4.4mAOD as indicated in section 5 of the FRA. The above mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

- 12) On submission of the reserved matters application the applicant shall provide a suitable flood evacuation plan to safeguard the proposed development from the potential risks posed by a flooding emergency. The plan shall be agreed with the LPA and adhered to for the life of the development.

Noise

- 13) The development hereby approved shall not be commenced until an acoustic report and written scheme to minimise noise associated with the development. The acoustic report shall identify background noise levels and the predicted noise levels at the boundary of the site considering the location and orientation of proposed buildings and siting of parking areas together with any necessary acoustic enclosure to plant or machinery. The acoustic report and written scheme shall be submitted to and approved in writing by the LPA. Thereafter the scheme shall be implemented as approved to the satisfaction of the LPA.

Ecology/Biodiversity

- 14) No development shall take place until a biodiversity management plan and a timescale for its implementation has been submitted to and approved in writing by the LPA to identify and protect habitats and biodiversity on and around the site in accordance with the measures identified in the Arbtech Preliminary Ecological Appraisal Survey and to provide net gains in biodiversity. The development shall thereafter be carried out in accordance with the approved management plan and in accordance with the agreed timescale.

Fencing

- 15) Prior to the occupation of the development details of a trespass proof fence for the boundary of the site that abuts Network Rail land shall be submitted to and approved in writing by the LPA. The details shall include the type, height, location, and specification of the fencing. The approved fencing shall be erected prior to the occupation of any part of the site and once erected shall be maintained for the lifetime of the development.