The Planning Inspectorate

Appeal Decision

Site visit made on 16 May 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2022

Appeal Ref: APP/B3438/W/21/3287802
Esterchem Ltd, Brooklands Way, Leekbrook, Leek ST13 7QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Adam Bray of Esterchem Ltd against Staffordshire Moorlands District Council.
- The application Ref SMD/2021/0437, is dated 25 June 2021.
- The development proposed is a storage building.

Decision

1. The appeal is allowed and planning permission is granted for a storage building at Esterchem Ltd, Brooklands Way, Leekbrook, Leek ST13 7QF in accordance with the terms of the application, Ref SMD/2021/0437, dated 25 June 2021, subject to the conditions in the attached schedule.

Background and Main Issue

2. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. Within its statement of case, the Council has set out its concerns with the proposal.

3. Based on the evidence before me, I consider that the main issue is the effect of the proposal on the delivery of employment development on land adjoining the appeal site.

Reasons

4. The appeal site forms part of an existing industrial business site currently occupied by Esterchem. It is located at the eastern limit of the existing industrial estate on Brooklands Way. Permission is sought to erect a storage building which would replace open air storage of drums and tanks containing the end product currently produced on site.

5. Policy SS 3 of the Staffordshire Moorlands Local Plan (September 2020) (the LP) notes that provision will be made within the district for at least 32 hectares (ha) of additional employment land up to the year 2033. Immediately to the east of the appeal site is a parcel of land allocated for 4.01ha net employment development through Policy E 2 of the LP.

6. The Council are concerned that the proposal would prejudice the delivery of development on the adjoining land, by reason of its siting at the head of the cul-de-sac on Brooklands Way, which it is suggested is the only practical access route to the allocated land.

7. The adjoining land is separated from the existing industrial estate and the highway network by the appeal site and adjacent businesses. Whilst extending Brooklands Way to the adjoining land would appear to be a logical extension of the highway, it seems to me that this access route would be reliant on crossing land owned by the appellant, and potentially other landowners. The appellant has not indicated that consent to do so would be forthcoming. There is no guarantee that access across the appeal site could be obtained, irrespective of whether the appeal proposal would be erected or not. There is also no conclusive evidence before me to confirm that this point is the only possible way to access the allocated site.

8. Whilst the adjoining land is the second largest employment land allocation in the LP, there is nothing before me to indicate that the net employment land requirement for the area and wider district is at risk of being met across the plan period. Site allocations are not the only way for sites to come forward and windfall developments may contribute to achieving the Council's requirement.

9. Furthermore, Policy DSR 2 of the LP highlights constraints with the allocated site and surrounding area, which include heritage assets, flooding, the highway network and ecology. I note that, despite these concerns, a 2016 outline application at the site was the subject of a resolution to approve. However, I have not been provided with the full details of that proposal and do not know whether a comprehensive solution to access the allocated site, across the appeal site, from the existing highway could be achieved. In the absence of evidence of a formal planning permission I cannot be certain that development on the adjoining allocated site would materialise or what form it may take.

10. Taking all the above into consideration, the proposal would not lead to a loss of employment, as none currently exists on the allocated site, and I am not convinced that the proposal would make a material difference to or adversely affect the delivery of development on the adjoining land. As such, this proposal would not prejudice the strategic aims of the LP as identified in policies SS 1, SS 10, E 1, E 2, E 3 and DSR 2. There would also be no conflict with the economic aims of the National Planning Policy Framework (the Framework).

Conditions

11. The Council provided a list of conditions it considered should be imposed if planning permission were to be granted. The appellant had an opportunity to comment on the list and raised concerns that the suggested conditions relating to hours of operation, lighting and the requirement for a construction and environmental method statement to be submitted are onerous given the existing operations at the site.

12. However, the condition relating to hours of operation was recommended by the Council's Environmental Health department and, within their consultation response, it appears to relate to times of operations of construction and demolition works rather than hours of operation of the business. Given the limited scale of the development, the site's location within an existing industrial estate, which is removed from residential properties, and its association with the 24/7 operation of the existing business, a condition relating to the hours of operation of any construction work and a condition requiring the submission of a construction method statement are unnecessary and unreasonable.

13. In the interests of protecting the living conditions of nearby residents, conditions relating to floodlighting and noise levels from machinery, plant or equipment associated with the proposed development are necessary. It is necessary to attach a condition relating to contamination, in the interests of human health and the wider environment.

14. A condition relating to drainage has been suggested by Severn Trent Water. This is necessary to ensure the development can be satisfactorily drained and to limit its effect on the wider area in terms of flooding and pollution.

15. I have attached conditions relating to the time scale, approved plans and use of the development for certainty. For clarity and precision, and to ensure compliance with the Planning Practice Guidance and the Framework, I have also undertaken some minor editing of the conditions referenced above.

Conclusion

16. The proposed development complies with the development plan and there are no material considerations which indicate that permission should be refused. Therefore, the appeal is allowed.

H Ellison
INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 2021 2600 02A, 2021 2600 03A and 2021 2600 04.

3. The development hereby approved shall be used solely for storage purposes ancillary to the operation of the existing business occupying the land edged blue in the approved drawings.

4. No above ground work shall commence until details for the disposal of foul and surface water have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to first use of the development hereby permitted and retained thereafter.

5. Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

6. The noise generated by any machinery, plant or equipment installed or operated in connection with the development hereby approved shall not

increase the background noise levels during day time expressed as LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [15 mins] during night time (night time 23:00-07:00 hours) at any nearby residential property above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142:2014.

7. Prior to their installation, details of any external lighting to be installed on site shall be submitted to and approved in writing by the local planning authority. The lighting shall be implemented in accordance with the approved details and retained thereafter as such.