



Appeal Decision

Site visit made on 29 February 2016

by W G Fabian BA Hons Dip Arch RIBA IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 March 2016

Appeal Ref: APP/P2935/W/15/3135448

Land adjacent to Cornhill Road, Tweedmouth, Northumberland

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Maden against the decision of Northumberland County Council.
 - The application Ref 11/02689/FUL, dated 18 October 2011, was refused by notice dated 31 March 2015.
 - The development proposed is 81 new property housing development.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development comprising 30 dwellings at Land adjacent to Cornhill Road, Tweedmouth, Northumberland in accordance with the terms of the application, Ref 11/02689/FUL, dated 18 October 2011, subject to the conditions in the schedule at the end of this decision.

Procedural Matter

2. Prior to the Council's determination of the application that led to this appeal, the description shown above was amended to 'residential development comprising 30 dwellings'. Amended plans in this regard were also taken into consideration by the Council, including a revised redline boundary plan reducing the size of the appeal site. I have considered the appeal on this basis.

Application for costs

3. An application for costs was made by Mr S Maden against Northumberland County Council. This application is the subject of a separate Decision.

Main Issue

4. the main issue in this case is whether the proposal would be a sustainable form of development, having regard to the effect on the current operation of the adjacent industrial estate and its possible future expansion, as well as the living conditions of future residential occupants in terms of noise.

Reasons

5. The appeal site is the centre part of a large tapering piece of land, comprising two fields, located on the Cornhill Road, which is all within the appellant's
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- ownership. It is relatively flat and is level with the road. A public footpath runs between the two fields along the eastern boundary of the appeal site and links to an east/west footpath close to the north boundary. The existing East Ord industrial estate, which is located immediately along its long north side lies substantially lower, by around 4m, such that the roofs of single storey buildings there are roughly level with the site. There is a wide band of existing semi-mature evergreen planting between the industrial estate and the appeal site, along the complete length of the joint boundary.
6. At the eastern end of the industrial estate, adjacent to the larger part of the area of land, but away from the appeal site, I have seen that the elevated conveyors, motors and vertical silos that are part of the Simpson Malt plant loom above the adjacent dormered bungalows in the residential estate to the east. There are further extensive 20th century housing estates on the opposite side of the road to the south. The A1 main trunk road is close-by to the west.
 7. The proposal is to build 30 new houses, with highway access in the same location as the existing field entrance. The proposed development would be laid out around a series of short culs-de-sac off a broadly east/west 'L' shaped access road and would comprise a mix of mostly modest sized semi-detached bungalows, semi-detached houses and detached houses in a plain but traditional style.
 8. The site lies southwest of Tweedmouth, within the area defined as the town of Berwick-upon-Tweed, including Tweedmouth, Spittal and East Ord by the development plan, where saved policy E5 of the *Berwick-upon-Tweed Borough Local Plan, 1999, (LP)* allows for new development, subject to two criteria. In relation to the first criterion, no objection has been raised in terms of the design and layout proposed and given the existing mix of 20th century housing in the surrounding area, I see no reason to disagree with the Council's assessment; subject to detail materials and landscaping conditions the proposal would be acceptable in this regard. The second criterion refers to all the other LP policies; however, no other relevant policies have been cited by the Council in respect of the main issue or any other material consideration.
 9. There is substantial concern from the owners of the adjacent industrial estate, as well as local and parish councillors, that the proposed development would introduce development on an area of open land widely regarded as a 'buffer' between the industrial estate and the housing at the other side of Cornhill Road and that this could inhibit the current industrial use and limit its future growth by restricting the scale of activity on it, in particular through limitation of the noise emissions from it. It provides one of the main sources of employment in the area and operates twenty-four hours per day throughout the week. There is an authorised use for hazardous substances storage at the western part of the industrial estate. The industrial uses on the industrial estate are subject to regulation by the Health and Safety Executive and the Environment Agency.
 10. The Government's *National Planning Policy Framework* (the Framework) requires at paragraph 123 that planning decisions should aim (amongst other things) to: avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; and recognise that development will often create some noise and existing businesses wanting

to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

11. No information has been supplied to me to demonstrate whether the adjacent industrial uses pre-date the existing dormer bungalows close-by on Greenwood Avenue and Ivinson Road, some of which already back onto a narrow field between them and the industrial estate, in particular the Simpson's Malt plant referred to above. I note that the appellant's noise assessment report states that the Council's Environmental Protection Team confirmed no record of complaints regarding noise from it by these residents, but that the Environment Agency indicate a recent issue in this regard. However, no records to show this have been provided by either party or by the operators of the industrial estate.
12. At the time of my visit, although a very low background hum was audible from close to the industrial estate, the most noticeable noise on the appeal site was that of passing traffic. I appreciate that at night time traffic noise would be much less and night time operations on the industrial estate may cause more noticeable noise. However, the appellant's successive noise assessment reports based on PPG24, BS8233:1999 and then BS4142, have been scrutinised by the Environment Agency as well as the Health and Safety Executive. Although both bodies previously objected to the former larger proposal and larger site, neither now raises any objection to the revised proposal for thirty dwellings on the appeal site. The Council's own Environmental Protection Officer also accepts that these reports demonstrate the acceptability of the proposal in terms of the effect of noise from the industrial estate on the future residential occupants.
13. While the reports were mainly based on a previous larger scheme that included the adjacent field, the noise monitoring point 3 used for these assessments lies within the site for the appeal proposal. The most recent noise assessment report update concludes that noise recorded at this point from the industrial estate is of less than 'marginal significance' in terms of the effect it would have on future residential occupants for all periods, day and night. This means that noise levels measured on the site and compared to the residual noise level (taken at a comparable site, due to the 24 hour operation of the industrial estate) were shown to produce a difference of less than around + 5dB. This relates to noise experienced outside the proposed dwellings.
14. The update report also notes that noise insulation in accordance with BS823 could be achieved to ensure good internal standards for each house type. It concludes finally that 'protection of amenity can be assured for any future development through the dual application of appropriate planning conditions, together with on-going enforcement of the environmental permit by the Environment Agency.' As such complaints from future occupants of the proposal due to excessive noise arising from the proposed development are not anticipated. While I would place less emphasis on reliance on on-going enforcement in reaching my decision, the other conclusions set out above give me confidence that serious noise impacts on residential amenity are unlikely and a reasonable quality of life can be ensured through the a requirement for noise insulation measures in the proposed homes by condition.

15. With regard to fears over the future proximity of residential occupants to possible contamination hazard, I note that the nearby recycling plant and storage of hazardous materials is adjacent to the tapered end of the land, not the appeal site. It is also on substantially lower ground than the appeal site. It occurs mostly indoors and concerns dismantling and materials reclamation from, for instance, circuit boards. The amended scheme has been reduced in size and is located on the part of the site identified on the HSE Consultation Zones plan for the site as within the intermediate area, 'MZ', relative to the Industrial estate. The HSE has also not objected on the basis of this concern.
16. In reaching my conclusion below I have taken the following into account: the evidence set out above; the absence of any technical evidence to substantiate the concerns raised; my site observations that the bulk of operations at ground level on the industrial estate would be well below the level of the appeal site, so limiting direct noise transmission; that the industrial estate is so built up adjacent to this boundary that future expansion would be almost wholly constrained in the direction of the appeal site; and, finally, that the prevailing wind would tend to take sound from the industrial estate away from the appeal site.
17. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development and in such circumstances, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. There are three dimensions to sustainable development - the economic, social and environmental roles. The proposal would contribute positively in economic and social terms through the addition of 30 dwellings to the supply of housing, which the Framework seeks to boost significantly, and through the provision of jobs during construction and indirectly within the local economy. The proposal would accord with the environmental role in terms of design. I am not persuaded, for the reasons set out above, that there would be significant environmental or social harm arising from the identified issue in relation to noise.
18. Overall and taking all other matters raised into consideration, I conclude that the proposal would be a sustainable form of development, having regard to the effect on the current operation of the adjacent industrial estate and its possible future expansion as well as the living conditions of future residential occupants in terms of noise. The proposal would accord with the development plan and national policy and as such the appeal should be allowed.
19. For the reasons set out below the following suggested conditions are necessary and reasonable and comply with the Framework and Planning Practice Guidance.
20. In addition to the standard condition relating to the timing of development, compliance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. To safeguard residential living conditions and in the interests of visual continuity with the surroundings, requirements are reasonable for the submission of various further details including: construction methods, timings of activities, dust prevention, site parking and storage arrangements and any floodlighting; details of landscaping; design of links to the existing footpath; details of external materials; and a scheme of noise insulation. In view of the adjacent industrial

use a requirement for a land contamination survey with any necessary remediation measures is prudent.

21. To secure a sustainable form of surface water drainage, a scheme should be provided; this accords with government policy and reflects consultee comments in respect of the proposal. Given the presence of water authority equipment on the site, a scheme for its diversion is necessary. As the site is undeveloped and supports a limited degree of local biodiversity the provision of measures for mitigation and enhancement are reasonable. As no details have been provided for the proposed garages or to demonstrate that adequate space has been provided for parking a detailed scheme is necessary. For the same reason further details of any adoptable road within the site are necessary.
22. As first floor side windows would occur in only a few limited properties and in positions where they would not cause an undue level of overlooking the suggested requirement for obscure glazing is unnecessary. The suggested condition requiring additional car parking has not been substantiated to demonstrate why this is necessary and fails to specify the level required, so lacks clarity.

Wenda Fabian

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: PL 001 Rev B, PL 002, PL 003, PL 004, PI 005, PL 006, PL 007, PL 008 and PL 009 Rev B.
- 3) No development shall take place until a scheme of site investigation, as identified in the Phase 1 Environmental Assessment, February 2012, Project NO: 21716, by SP Environmental UK, to assess the nature and extent of any contamination on the site has been carried out. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. The scheme shall include all of the following measures:
 - a) A desk-top study carried out to identify and evaluate all potential sources of contamination and the impacts on land and /or controlled water, relevant to the site. The study shall establish a conceptual model and identify all plausible pollutant linkages. The assessment

- shall set objectives for intrusive site investigation works/quantitative risk assessment (or state if not required). Two copies of the desk-top study and a non-technical summary shall be submitted to the local planning authority on completion.
- b) If identified as being required following completion of the desk-top study, a site investigation shall be carried out to fully characterise the nature and extent of any land contamination and / or pollution of controlled water. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the site's existing status and proposed new use. Two copies of the investigation and findings shall be submitted to the local planning authority on completion.
 - c) Thereafter, a written method statement detailing the remediation requirements for the contamination and/or pollution of controlled waters affecting the site be submitted to and approved in writing by the local planning authority, and all requirements shall be implemented and completed as approved.
 - d) If during the development contamination not previously identified is found the local planning authority shall be notified immediately and no further development carried out until a method statement detailing further investigation and remediation submitted to and approved by the local planning authority, and all requirements shall be implemented and completed as approved.
 - e) Two copies of a full closure report shall be submitted to and approved by the local planning authority. The report shall provide verification that the required contamination remediation works have been carried out in accordance with the approved Method Statement. Post remediation sampling and monitoring results shall be included in the closure report to demonstrate this.
- 4) No development shall take place until a detailed scheme for the diversion of the Northumbrian Water apparatus on site has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be carried out as approved.
 - 5) No development shall take place until a scheme of biodiversity enhancements as referred to in the Extended Phase 1 Habitat Survey, June 2010 by Baker Shepherd Gillespie, has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be carried out as approved.
 - 6) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 7) No development shall take place until further details of the garages and parking places hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 8) No development shall take place until a detailed scheme of landscaping including planting schedules and a two year maintenance scheme and implementation programme as well as means of boundary enclosure has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until a scheme for linking the footway within the development to the existing Ord Footpath No 23 has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking and turning 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) measures to control the emission of dust and dirt during construction including wheel washing and road cleaning
 - v) a scheme for any floodlighting
 - vi) to limit hours of construction for works audible at the site boundary to Monday – Friday 0800 – 1800, Saturday 0800 – 1300 and not at all on Sundays or Bank Holidays.
- 11) The dwellings shall be constructed in accordance with a detailed scheme to provide sound insulation measures that take into account the provisions of BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings. Development shall be carried out in accordance with the approved details.
- 12) No dwelling shall be occupied until a fully dimensioned layout plan and longitudinal section with details of construction for the access road, footways and parking and turning provisions incorporating road drainage and street lighting, has been submitted to and approved in writing by the local planning authority. The access road, footways and parking and turning spaces shall be constructed so as to ensure that each dwelling is served by a properly consolidated and surfaced carriageway and footway to at least binder course level, with operational street lighting between the dwelling and the existing highway, prior to occupation. All manhole covers and gulley frames shall be set t the level of the temporary running surface until immediately prior to the final wearing course is laid. The development shall be implemented as approved.
- 13) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the

assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- vii) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- viii) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

End of conditions

Richborough Estates