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## Appeal Decision

Site visit made on 6 February 2018

by **Philip Major BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9<sup>th</sup> February 2018

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**Appeal Ref: APP/G0908/W/17/3187370**

**Solway Industrial Estate, Main Road, Maryport, Cumbria.**

- 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 Prospect Estates against the decision of Allerdale Borough Council.
  - The application Ref: 2/2017/0265, dated 5 May 2017, was refused by notice dated 7 September 2017.
  - The development proposed is described as a development of 65 new dwellings.
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### Preliminary Matters

1. The appeal is made in outline with all matters reserved except access and layout. I am aware that a second application for residential development has been made in relation to the appeal site. However, that case is not before me and I must make my decision on the basis of the information submitted in this appeal.
2. The application was refused for a number of reasons. However, the Council has acknowledged that a number of the matters of concern are capable of being dealt with, as shown in relation to material submitted with the appeal. This reduces the number of main issues in this appeal as set out below.

### Decision

3. The appeal is dismissed.

### Application for costs

4. An application for costs was made by Allerdale Borough Council against Prospect Estates. This application is the subject of a separate decision.

### Main Issues

5. The main issues in the appeal are:
  - (a) Whether the proposed development would be acceptable in view of its current use and location;
  - (b) Whether there is adequate provision for affordable housing.

### Reasons

#### *Use and Location*

6. The appeal site is a significant block of land within an existing industrial area. The Council's development plan policies are supportive of the provision of a

range of high quality employment sites. It seemed to me at my site visit that the Solway Industrial Estate (which includes the appeal site) provides a range of high quality industrial premises, the majority of which are occupied. The appeal premises are some of the largest on the estate, which also benefits from smaller units of accommodation.

7. It is clear from Local Plan Policy S12 that any proposal to change the use of employment land allocations should be carried out in the site allocations process. I understand that this process is underway. However, there is also scope for some change in employment areas and this is controlled by Policy DM3. Policy DM3 sets out clear criteria relating to such proposals. These include that the site could not be reasonably upgraded to meet current or long term business needs and would not significantly impact on the supply of employment land in the long term.
8. In this instance I am aware that the Appellant has carried out a marketing exercise over the last year or so which has so far proved unsuccessful. However, I am not aware of any information that the site could not be upgraded in such a way that it would become more attractive to potential buyers or tenants. Simply offering the site as a whole or in smaller parts does not seem to me to take a proactive role towards the potential for innovative solutions. As such I cannot conclude that there is no reasonable prospect of the land being used for employment purposes in the future.
9. The Council accepts that employment land is not in short supply in the Borough but points out that the Solway Industrial Estate is part of the strategic supply for the Maryport area. I therefore consider that it is an important location for employment land provision.
10. In any event Policy DM3 establishes a preference for a mix of employment and non-employment uses if a site is to be taken out of wholly employment use, with single-use residential development being less preferential. I am not aware that any such proposals have been considered by the Appellant. Rather it has been suggested that if there is no market for employment use there would be no market for a mixed use. I am not persuaded by that argument. In short I am not satisfied that it has been shown that the site could not be made more attractive for employment use, or in the alternative that a mix of employment and other uses would not be feasible.
11. The proposal therefore conflicts with Policies S12 and DM3 of the Local Plan. These policies are in harmony with the National Planning Policy Framework (NPPF) which supports sustainable economic development.

### **Affordable Housing**

12. Policy S8 requires that new development of this scale in key service centres (such as Maryport) includes 20% affordable housing. Under Policy S21 this would normally be secured by S106 obligation or by condition on any planning permission. Information supplied from the Appellant indicated a willingness to enter into a S106 obligation, but none has been put before me. The provision of a S106 obligation would be the usual means of securing affordable housing.
13. It seems to me that in the absence of an obligation there is no certainty that any scheme would be able to bring forward an appropriate level of affordable

housing provision. Without affordable housing the proposal would conflict with the development plan policies set out above, and the objectives of the NPPF.

### **Other Matters**

14. The Appellant acknowledges that the Council can demonstrate a 5 year supply of deliverable housing sites. Therefore, although there is no bar to greater provision, the support for further open market housing is lessened. The fact that housing would be provided in a location well related to the town does not outweigh the conflict with the development plan I have identified.
15. The Council has concerns relating to the relationship of housing with the neighbouring industrial uses. As layout is not a reserved matter this is a valid concern. Having seen the site I am not persuaded that it could not, in principle, be developed for residential purposes, but the information on the application is not sufficient to reach a definitive view on this matter. Greater clarity about the layout and configuration of individual dwellings would be required to be sure that residential and industrial uses could exist close together here. This matter does not weigh either in favour or against the proposal but is a matter which would require resolution prior to the grant of planning permission.
16. Other matters raised in the Council's extensive reasons for refusing planning permission have, I understand, largely been addressed during the course of this appeal. It certainly seems to me that access could be provided safely, that parking could be adequately provided for, and that suitable measures could be introduced to ensure the public sewer on the land, and any protected species, were adequately safeguarded.

### **Overall Conclusion**

17. I am not satisfied that it has been shown that the appeal site has no future as an employment site, or that such a future could not be ensured by adaptation or mixed use. There is also no satisfactory provision for affordable housing in the proposal. There is consequent conflict with the development plan, which is up to date and accords with the NPPF. No other matters outweigh the development plan conflict. For the reasons given above I conclude that the appeal should be dismissed.

*Philip Major*

INSPECTOR