

PLANNING COMMITTEE, 18TH OCTOBER 2023

INFORMATION REPORT

APPEAL DECISION RECEIVED

Tungsten
Worksop
Ltd, Hallam
Land
Management
And Paul
Blagg

Appeal against the refusal of full planning permission for the construction of two buildings for employment purposes (B8), along with a gatehouse, associated infrastructure and soft landscaping.

DECISION: Appeal ALLOWED by the Inspector and Partial Costs Awarded to the Appellant

The application was refused by Planning Committee on 14 December 2021, against officer recommendation for the following reasons:

- 1. It is the opinion of the Local Planning Authority that the proposed development will have a severe effect on the strategic highway network in terms of capacity and traffic generation leading to unacceptable congestion in the vicinity of the site and on the wider highway network. In particular the proposal in conjunction with other exiting and committed development will cumulatively have a severe impact on the adjacent A57, principally the roundabouts at Claylands Avenue / Shireoaks Common, High Grounds and the St Annes A60 / A57 roundabout along with Cannon Crossroad and the junctions of Gateford Road with Raymoth Lane and Ashes Park Avenue. If permitted the proposal would be contrary to Policies DM4 and DM13 of the Bassetlaw Core Strategy and paragraph 110 of the National Planning Policy Framework 2021.*
- 2. It is the opinion of the Local Planning Authority that the proposal does not meet the economic strand of the definition of achieving sustainable development set out within paragraph 8 of the National Planning Policy Framework. The proposal, if permitted would not help build a strong, responsive and competitive economy due to the fact that there will be a number of low skilled jobs created by the proposal rather than a range of opportunities across a range of skill levels, and particularly higher skilled roles, which is required within the District. The development proposed does not have a confirmed end user and therefore cannot guarantee high skilled jobs. If permitted the proposal would be contrary to paragraphs 8 and 83 of the National Planning Policy Framework 3.*
- 3. It is the opinion of the Local Planning Authority that the development would have a detrimental effect on residential amenity in terms of noise and disturbance from the proposed use, primarily due to the increase in traffic movements to and from the site within the residential areas surrounding the application site. The proposal if permitted would be contrary to Policy DM4 of the Bassetlaw Core Strategy and paragraph 130*

Following an extraordinary planning committee meeting on 23rd March 2023 it was resolved that reason 2) would not be defended at the appeal.

The inspector considered that the main issues were:

- The effect on local highways, including whether the residual cumulative impacts on the road network would be severe.
- The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to noise and general disturbance.
- If conflict with the development plan, when taken as a whole is identified, whether such conflict is outweighed by other material considerations.

The Inspector concluded the following:

Subject to contributions and conditions, there would be no unacceptably adverse impacts in relation to highway impacts or safety and the living conditions of neighbouring occupiers. The proposal would not be in conflict with the development plan in such terms. However, the site is located outside the limits of development and as set out above there is an 'in principle' policy harm. There would also be some harm to the character and appearance of the site and its immediate surroundings. The conflict with Policies CS1, CS2 and parts of DM4 of the CS and the NP is such that the proposal should be regarded as being in conflict with the development plan, as a whole.

The Inspector therefore undertook an analysis of any other material considerations which indicate that permission should be granted and engaged the tilted balance test as outlined in paragraph 11d) ii of the NPPF.

The Inspector states that in terms for character and appearance of the area the proposal is considered in its design, recognising its countryside location and neighbouring occupiers and to my mind the harm and resultant conflict carries a modest amount of weight against the proposal

However balanced against this was the principle of B1/B2/B8 employment and other uses on the wider site has already been established by the extant permission. The Inspector stated that the site is clearly a suitable and accessible location for new employment development identified in both the NP as a development site and in the ELP, for employment land. He also acknowledged that the extant permission would ultimately have caused greater harm in terms of the specific concerns raised by the committee members, and which led to the appeal. This weighs significantly in favour of the proposal

In terms of the provision of jobs and the pressing need for logistics space the Employment and Skills Plan secured in the UU would ensure that local people and businesses benefit from the operational phase and end use. Operational phase jobs would be at both ends of the spectrum and across a range of occupations and there would be work placement opportunities and on-site jobs for people in the district along with opportunities for qualifications and industry certification. Given the local context and in accordance with paragraph 81 of the Framework, the support for economic growth, taking account of local business needs and the wider opportunities it would create, carries significant weight in favour.

The Inspector stated that the proposed highway mitigation lay neutral in the balance and there were some environmental benefits in terms of biodiversity net gain which weigh modestly in favour

The Inspector concluded that drawing everything together, there are no policies in the Framework that protect areas or assets of particular importance that are applicable here and provide a clear reason for refusing the development proposed. This is not a case where the presumption in favour of sustainable development is disapplied by virtue of paragraph 11 d) i.

Whilst I have found that there would be some adverse impacts, they would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, when taken as a whole. As such the proposal would be the sustainable development for which Paragraph 11 d) ii. of the Framework indicates a presumption in favour.

In this case there are material considerations which outweigh the harm and conflict with the development plan that I have identified and indicate to me that a decision should be made other than in accordance with the development plan.

There are no other material considerations that indicate permission should be withheld. I therefore conclude that the appeal should be allowed, and planning permission granted subject to the conditions set out in the attached Schedule

A copy of the Inspector's decision letter follow this report.

OFFICER RECOMMENDATION: Approve

PLANNING COMMITTEE DECISION: Refuse

FINALISED DECISION LEVEL: Planning Committee

The appellant also submitted a full costs appeal and was awarded partial costs.

There were two main reasons for refusal to consider in terms of costs:

- i. Highways
- ii. Noise

In terms of highways the Inspector concluded that the Council had not behaved unreasonably. . The Inspector stated that the reason was based on a reasonable concern over the effects that the appellant had not considered it necessary to assess. Notwithstanding the appellant considered the effects to not be materially harmful and despite confirmation that it was not required by the relevant consultees, this information was clearly an important material consideration in my determination of the highways impacts.

Whilst I have ultimately disagreed with the Council's views the manner in which the associated reason for refusal was reached and the evidence provided to the Inquiry does not amount to unreasonable behaviour. I appreciate that the applicant does not agree with the Council's consideration and opinions relating to the effect of the appeal proposal in such terms but given their conclusions, which I am satisfied were properly reached overall and substantiated, the dispute over this matter meant an appeal to resolve it was inevitable.

However in terms of noise the Inspector concluded that the Council has acted unreasonably due to the fact that conditions could have been used to overcome the reason. Furthermore the Council did not act consistently in terms of decision making of the current proposal and the schemes which had been granted permission, particularly where in this case they accept there is an extant permission that overall would have generated more traffic, including from Heavy Goods Vehicles and therefore with no material change in circumstances to warrant such an objection.

The Inspector found that the evidence and responses to his questions regarding the likely future use of Blackstone Drive/Aveling Way by vehicular traffic to be vague, generalised and unsupported by any objective analysis. The Inspector was also unconvinced by the reasons given for the need for reversing beepers.

Overall, the Inspector found the evidence on this reason for refusal to be vague, generalised, and inaccurate, unsupported by any objective analysis. The evidence failed to substantiate this reason for refusal or provide a reasonable and respectable basis for the Council's stance that the impact of the scheme before me would be more harmful than the extant scheme and would cause harm to the living conditions of neighbouring occupiers.

For these reasons, the Council's refusal of permission on the grounds of the effect on living conditions in terms of noise and disturbance amounted to unreasonable behaviour that resulted in unnecessary and wasted expense at the appeal in having to present and examine evidence on this issue. A partial award of costs is therefore justified in relation to this reason for refusal.

Council Officers are currently in the process of negotiating these costs.