



Appeal Decision

Site visit made on 29 August 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023

Appeal Ref: APP/K2230/W/23/3314679

Northfleet Industrial Estate, Unit K6, Lower Road, Northfleet, Gravesend, Kent DA11 9BL

- 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 Philip Rudd of Jackson Family Holdings against the decision of Gravesham Borough Council.
 - The application Ref 20220681, dated 21 June 2022, was refused by notice dated 27 September 2022
 - The development proposed is change of use of building to a mixed warehouse and office use together with erection of first and second floor extension and construction of a multi level car park, together with associated earthworks and drainage.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Upon reviewing the case file, I noticed that the absence of an assessment to assess the bat roosting suitability of on-site trees was not a matter of dispute between the main parties. With reference to Paragraph 99 of the Office of the Deputy Prime Minister Circular 06/2005 and the submitted evidence, I sought further information to substantiate the positions of the main parties in this regard.
3. I have had regard to the responses submitted by the Council and the appellant in determining this appeal.

Main Issues

4. The main issues are:
 - the effect of the proposal on protected species, with particular regard to bats; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Protected species

5. There is woodland approximately 225m south of the site, and parts of the Swanscombe Peninsula Site of Special Scientific Interest (SSSI) are close to the site. Surveys carried out in the SSSI have recorded bats. There are recent records of bats, including roosting bats within 900m of the site. As a result, the trees on the site have the potential to support roosting bats.

6. Paragraph 99 of Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
7. An assessment of the bat roosting suitability of on-site trees is not included within the submitted evidence. In the absence of such an assessment it is not possible to confidently ascertain that there are no bats roosting within the site.
8. The appellant has indicated that a pre-commencement condition could be imposed requiring submission of a bat roosting suitability survey and bat survey. Although the Circular states that surveys should only be required where there is a reasonable likelihood of a species being present, it advises that surveys should be carried out before planning permission is granted. The required survey cannot lawfully be secured by condition and this information is required prior to making a decision, in order that I can be satisfied that the development would not have a harmful effect on protected species.
9. Paragraph 180 of the National Planning Policy Framework (the Framework) advises that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less than harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
10. In conclusion, in the absence of sufficient evidence to the contrary, the proposal would potentially cause unacceptable harm to protected species. This would be contrary to policy CS12 of the Gravesham Local Plan Core Strategy (2014) (CS) which seeks to ensure there is no net loss of biodiversity and that where a negative impact on protected species cannot be avoided compensatory provision will be required. For similar reasons, the proposal would not accord with the Framework, including paragraphs 174 and 180.

Character and appearance

11. The appeal property is located within the Swanscombe Peninsular East Riverside Industrial Area which is a subsection of the Northfleet Embankment and Swanscombe Peninsula East Opportunity Area. The main parties agree that Policy CS03 of the CS states that the area should be retained in employment use and that the Council will support proposals which expand and support their operation.
12. The site comprises an existing industrial unit with a rear access and open land used for car parking. The unit is located within a terrace of similar single storey industrial buildings, which have shallow pitched roofs. The appeal site and other buildings within the terrace are of a functional design and have limited architectural merit.
13. The wider industrial estate which the site is located within contains a range of small scale industrial and larger warehouse buildings, which are home to a range industrial occupiers. The River Thames is located to the north east and aggregates and distribution occupiers utilise nearby wharves along the river. To

the south is a sports stadium and several local retail outlets, which contribute to the mixed range of large scale buildings in the area.

14. The surrounding area contains utilitarian paraphernalia associated with the various industrial and employment uses such as security fencing, hoarding, pylons, dock side cranes, chimneys and security lighting. Overall, the appeal site and surrounding area has a heavily industrialised character, and there are no nearby buildings or features of particular architectural interest or sensitivity within the immediate area.
15. I accept that the proposal would extend above the height of the neighbouring industrial buildings, increasing its visibility. However, visibility in itself is not an indicator of harm, and the increased height of the building would appear as a part of the surrounding, varied wider industrial townscape. When viewed from the front, the proposal's additional height would create a focal point within the terrace, and would have the visual effect of separating the existing terrace into separate parts. The proposal would create a new entrance, introduce contemporary steel panels on the façade, with a central bay of windows which would visually tie the additional storeys together. The proposed external materials and fenestration, whilst of contemporary design, would be consistent with, and would therefore reinforce, the industrial character and appearance of the wider area.
16. The proposal would have a shallow pitched roof which would have similar proportions and would reflect the pitch of the existing and adjoining buildings within the terrace. Consequently, the roof form would enable the proposal to integrate with the existing building and terrace. Due to its height, the proposal may be more prominent than the existing building, however, in view of my findings on design, this element would not prove to be harmful in visual terms.
17. The appellant has provided a Summary Townscape and Visual Appraisal, which includes accurate visual representations (AVR) of the proposal from three separate viewpoints. The relevant AVR demonstrates that the western elevation of the proposal's upper floors would be visible in longer views from both Galley Hill Road and the nearby railway line. The rear multi-storey car park would also be visible, but as it would be lower in height it would be less evident in these views.
18. Due to their elevated height, current views from these vantage points look across the roofscape of the range of industrial buildings, and takes in the various industrial paraphernalia described above. Consequently, the viewpoints are not sensitive to change, particularly those related to the expansion of industrial operations. Whilst taller than the existing building, the proposal would be seen in the wider townscape which takes in a range of industrial buildings and features of varying scales and therefore would not be out of place within this visual context.
19. Overall, I find that the proposal's height and mass would sit comfortably on this site and that the proposed additional floors would not harm the contribution the building makes to views of the site from Galley Hill Road or the nearby railway line.
20. For the reasons set out above, the building would assimilate appropriately with the host building and its surroundings. I therefore find that the proposal would not conflict with Policy CS19 of the CS. This policy seeks, amongst other

matters, new development to be visually attractive, fit for purpose and locally distinctive whilst integrating well with the surrounding area.

21. The proposal would also comply with paragraph 130 of the Framework which requires development to be visually attractive as a result of good architecture and layout whilst being sympathetic to local character.

Other Matters

22. The Framework sets out that planning decisions should help create the conditions in which businesses can invest, expand and adapt, and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
23. The appellant indicates that the proposal would result in the immediate transfer of 80 existing jobs into Gravesham Borough and that 75% of the workforce currently live locally. The proposal would also create an additional 40 jobs over time. This would provide further opportunities for local employment. The proposal would also provide an established apprenticeship training scheme to the highest level of NVQ offering training opportunities to local residents. The appellant also indicates that the proposal would result in the generation of £1.9m business rates per annum. It would also support inward investment from an established business with strong links through its workforce to the local area.
24. There would also be economic benefits during the construction phase through employment and indirect value to the local supply chain.
25. The proposal's location would reduce the need for local residents to commute out of the Borough for employment, and the site is well located for access to public transport, for instance it is in close proximity to Northfleet rail station. The submitted Travel Plan also identifies a commitment to delivering a minibus service connecting to the railway station for employees.
26. In terms of sustainability benefits, the appellant states that they have taken a pro-active approach to carbon neutrality by reducing building consumption. The company has certification of ISO14001 (Environmental Management) and ISO5001 (Energy Management). Refurbishing and extending existing building would make the unit more environmentally sustainable by improving insulation and reducing energy consumption. Carbon savings would be achieved by re-using the existing building rather than knocking down and re-building it.

Planning Balance and Conclusion

27. The operational needs of the appellant's business, the increase in jobs, training opportunities, and the associated economic benefits are issues of significant weight in favour of the proposal.
28. The development would also give rise to some economic benefits during the construction phase, however, these would be short-term. They therefore attract modest weight.
29. The sustainability benefits, primarily related to the improved insulation and benefits associated with avoiding the demolition of the building are matters to which I attach modest weight. Noting the moderate scale of the development,

the site's accessible location and the appellant's commitment to a Travel Plan carry modest weight.

30. The appeal site falls within an area where employment growth is supported by the Local Plan and the appeal scheme does not give rise to any further conflicts with the policies of that plan. However, these matters are of neutral consequence to my assessment.
31. Paragraph 180 of the Framework sets out the principles for how decisions should protect and enhance biodiversity. In view of my conclusions on the effect on a protected species, the appeal proposal conflicts with the Framework. The conflict between the proposal and Policy CS19 of the CS should be given significant weight in this appeal. Overall, I consider that the adverse impacts I have identified in this regard, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
32. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other matters raised, the appeal is dismissed.

B Pattison

INSPECTOR