



Appeal Decision

Site visit made on 15 February 2022

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/T2350/W/21/3285562

Mitton Road Business Park, Mitton Road, Whalley BB7 9JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr David Hollinrake of AI Land Ltd against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2021/0597, dated 1 June 2021, was refused by notice dated 24 September 2021.
 - The application sought planning permission for extension to existing industrial estate (Class B1, B2 and B8 use) to include car parking, landscaping and service infrastructure without complying with a condition attached to planning permission Ref 3/2017/0714, dated 1 December 2017.
 - The condition in dispute is No 3 which states that: The external materials, including surfacing materials and their extents, of the development hereby permitted shall be carried out in complete accordance with those detailed on the approved plans and the 'Additional Planning Information' sheet submitted with the application. The materials shall be implemented within the development in strict accordance with the approved details.
 - The reason given for the condition is: To ensure that the materials to be used are appropriate to the locality in accordance with Policies DMG1 of the Ribble Valley Core Strategy.
-

Decision

1. The appeal is allowed and planning permission is granted for an extension to existing industrial estate (Class B1, B2 and B8 use) to include car parking, landscaping and service infrastructure at Mitton Road Business Park, Mitton Road, Whalley BB7 9JY in accordance with the application Ref 3/2021/0597 made on the 1 June 2021 without complying with conditions Nos 2 and 3 set out in planning permission Ref 3/2017/0714 granted on 1 December 2017 by Ribble Valley Borough Council, but otherwise subject to the conditions on the attached schedule.

Preliminary Matters

2. Based on the submitted information and what I observed, a number of the units approved under permission reference 3/2017/0714 have been constructed with grey profile sheeting rather than timber cladding. I have therefore dealt with the appeal under section 73A of the Town and Country Planning Act 1990.
3. The application form states that the application relates to condition 3, which refers to materials. The approved plans listed in condition 2 of permission

reference 3/2017/0714 refer to materials and so this condition would also need to be varied. I have proceeded on this basis.

Background and Main Issue

4. The conditions in dispute relate to a planning permission granted in 2017 for an extension to the Mitton Road Business Park located to the north of Whalley. The approved scheme includes a number of industrial units together with car parking and landscaping, with access from Mitton Road just to the west. Several units have been constructed, and a number are occupied. I observed that construction of the remaining units was underway.
5. The approved plans require the units to be clad with vertical timber boarding to all elevations. The appellant now wishes to use grey profile sheeting on a number of the elevations. The Council's statement indicates that the conditions in dispute are necessary to protect the character and appearance of the area, and to ensure that the development reflects its rural location.
6. Taking the above background into account, the main issue is the effect that varying the conditions would have on the character and appearance of the area.

Reasons

7. The site is outside of a defined settlement boundary and so is in the open countryside. It lies immediately to the south of Mitton Road Business Park phase 1 which comprises a small number of timber clad industrial units. There is a residential area to the west. A large industrial building associated with a plant auction business is just to the south. To the east lies agricultural fields. The overall character of the area is rural, but the site is also seen in the context of other industrial buildings.
8. The main views of the site are from Mitton Road. Timber cladding would be retained on the units closest to the road on the most prominent elevations. In addition, the two smaller units in the north east and south west corners of the site would be retained as timber clad.
9. The constructed units are, and those still to be constructed would be, screened to a large extent when travelling along Mitton Road, given their relationship with the existing industrial buildings immediately to the north and south and the vegetation along the road. Longer distance views of the units from Mitton Road would therefore be limited.
10. When approaching the site from the north along Mitton Road, it would mainly be the proposed timber clad elevations that would be visible. Although it would be possible to view at least parts of the other units that would be profile sheeted, in particular those in the southern section of the site, these would generally be seen against the backdrop of the existing industrial building to the south. Whilst the western gable of this industrial building is to be timber clad, the Council has granted permission to vary the material on its northern and southern elevations to grey profile sheeting. The nature of the views would be similar when approaching from the south. The use of profile sheeting on the units proposed would not therefore appear incongruous in this context.
11. It is at the site entrance where the clearest views across most of the site is possible. This would include views of the units further into the site against a

backdrop of the hills to the east. However, these units would be viewed at some distance, and they would sit beyond the timber clad elevations of the units nearest to the road, which would help to reduce the visual extent of profile sheeted elevations apparent from this vantage point. Furthermore, landscaping is proposed along the western boundary adjacent to Mitton Road which would help to screen the site.

12. The units within Mitton Road Business Park phase 1 are timber clad. These units are well contained in the landscape and from most vantage points it is only the gable of the unit nearest Mitton Road that can be seen. It is really only at the access point that views into phase 1 are possible. There are only limited vantage points on Mitton Road where views of the units within the site would be seen in conjunction with the phase 1 units, and it would mainly be the timber clad elevations that would be visible in such views. The proposed development would not therefore have an unacceptable effect on the appearance of these adjacent units.
13. The Council has highlighted the statement within paragraph 134 of the National Planning Policy Framework (the Framework) that development that is not well designed should be refused. The Council's view is that in order to achieve a high quality appearance, appropriate materials must be used.
14. The proposed alteration of the cladding material would change the character of the industrial estate to an extent. It would have a more urban character when viewed from certain vantage points, somewhat at odds with the countryside location. However, the retention of timber cladding on the most prominent elevations and the fact that visibility of the units would be substantially contained by the surrounding buildings, the proposed landscaping and roadside vegetation, mean that the proposal would not detract from the overall character and appearance of the surrounding rural area or adjacent units to a harmful extent.
15. Consequently, the proposal would accord with Policies DMG1, DMG2 and DME2 of the Core Strategy 2008 – 2028 A Local Plan for Ribble Valley, adopted 2014 (the CS). These policies require development to be of a high standard of building design; be sympathetic to land uses in terms of a number of factors including building materials; within the open countryside be in keeping with the character of the landscape and acknowledge the special qualities of the area by virtue of factors such as the use of materials and not harming important landscape features. The proposal would also accord with Key Statement EN2 of the CS which expects development to be in keeping with the character of the landscape, reflecting local distinctiveness and building materials amongst other matters.

Conditions

16. The Planning Practice Guidance makes clear that decision notices for the grant of permission under Section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As the original development has been started, I do not need to re-impose the time limit condition.
17. The original permission, reference 3/2017/0714, was granted subject to a number of conditions which require the submission of further details for approval. Confirmation was sought on which conditions have been discharged by the Council. The Council provided information on the pre-commencement

conditions that have been discharged. Accordingly, I shall impose all those conditions that I consider remain relevant.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed.

F Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:
 - Location Plan
 - 4487-04-02o Proposed Site Plan [received 11/10/2017]
 - 4487-04-18B Proposed Landscaping Layout [received 11/10/2017]
 - 102 – 01 – 01 Type 1 – Buildings E and F
 - 102 – 01 – 02 Type 2 – Buildings O and P, Type 3 – Buildings G and S
 - 102 – 01 – 03 Type 4 – Buildings H and L
 - 102 – 01 – 04 Type 5 – Buildings I, M and N
 - 102 – 01 – 05 Type 6 – Building K
 - 102 – 01 – 06 Type 7 – Buildings Q and R, Type 8 – Building T
 - 102 – 01 – 07 Type 9 – Building J
- 2) The external materials, including surfacing materials and their extents, of the development hereby permitted shall be carried out in complete accordance with those detailed on the approved plans and the 'Additional Planning Information' sheet submitted with the application, dated 1st June 2021. The materials shall be implemented within the development in strict accordance with the approved details.
- 3) No single unit of B1(c), B2 or B8 accommodation hereby approved shall have a ground floor area of more than 360m² and, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any Order revoking or re-enacting that Order with or without modification, no internal alterations involving the removal of walls between these individual units shall be carried out which would enlarge them so that any single unit has a ground floor area of more than 360m².
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any Order revoking or re-enacting that Order with or without modification, no extensions or alterations, including the introduction of mezzanine floors, shall be carried out in respect of the buildings to which this permission relates.
- 5) During the construction period no building or engineering operations within the site or deliveries to and from the site shall take place other than between 07:30 hours and 18:00 hours Monday to Friday and between 08:30 hours and 14:00 hours on Saturdays, and not at all on Sundays or Bank Holidays.
- 6) No part of the development hereby granted consent shall be commenced until details of all artificial lighting has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include the location, intensity of lighting, type of application and direction. The details shall include the light mitigation measures designed to reduce the impact of artificial lighting on protected species and species of conservation concern. The external lighting shall be installed precisely in accordance with the approved details and thereby retained as such.

- 7) The working hours within the premises shall be restricted to the period from 08:00 to 18:00 hours on Mondays to Fridays and 09:00 to 13:00 on Saturdays only. No work shall take place in the buildings on Sundays, Bank or Public Holidays.
- 8) Prior to the first use or occupation of each unit of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site shall not have an impact on noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and the Planning Practice Guidance and confirmation of the findings of the assessment shall have been submitted to, and approved in writing by, the Local Planning Authority and shall be adhered to thereafter.

If the assessment indicates that noise from the development is likely to affect neighbouring residential or commercial properties, then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the unit. The noise mitigation measures shall be designed so that nuisance will not be caused to the occupiers of neighbouring noise sensitive premises by noise from the development.

- 9) No externally sited fixed plant, machinery or equipment (including ventilation and extraction equipment); or internally sited fixed plant, machinery and equipment (including ventilation and extraction equipment) which communicates directly to the exterior of a building used in connection with the development shall be fitted without first obtaining planning permission from the Local Planning Authority.
- 10) No goods, plant or materials shall be deposited or stored on the site other than in the buildings shown on the approved plans.
- 11) There shall not at any time whatsoever be any working outside of the buildings, or any noise generating work inside the buildings with the doors open.
- 12) There shall be no deliveries or collections to/from the new units hereby approved other than between 07:00 to 19:00 Monday to Friday, between 08:00 to 13:00 Saturday and not at all on Sunday and Bank Holidays.
- 13) There shall be no movements of HGV's or forklift trucks, used in connection with the new units hereby approved, within the open areas of the site other than between 07:00 to 19:00 Monday to Friday, between 08:00 to 13:00 Saturday and not at all on Sunday and Bank Holidays.
- 14) No goods, plant or material shall be displayed for sale in the open on the site.
- 15) The biodiversity mitigation measures as detailed in the Ecological Appraisal [ref.3466] (Sections 7.1 - 7.8.2) shall be implemented in accordance with the recommendations and any specified timetable. The development shall subsequently be implemented entirely in accordance with the approved details. Thereafter, the mitigation measures shall be permanently maintained and retained in accordance with the approved details.

- 16) The artificial bird/bat nesting/roosting features as detailed on plan 4487-04-18B shall be incorporated into the buildings during the actual construction and before the development is first brought into use and the mitigation measures shall be permanently maintained and retained at all times thereafter.
- 17) The approved landscaping scheme as detailed on plan 4487-04-18B shall be implemented in the first planting season following occupation or use of the development and shall be maintained thereafter for a period of not less than 10 years. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.
- 18) Foul and surface water shall be drained on separate systems.
- 19) Surface water draining from areas of hardstanding shall be passed through an oil separator or series of oil separators, prior to being discharged into any watercourse, soakaway or surface water sewer. The separator(s) shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water or vehicle washdowns and detergents shall not pass through the separator(s) and should be drained instead to foul sewer or sealed system.
- 20) The new estate road/access between the site and Mitton Road shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.
- 21) The existing access shall be physically and permanently closed at its junction with the internal estate road except for emergency situations. Provision shall be retained for the unobstructed passage of pedestrians and cyclists concurrent with the formation of the new access.
- 22) The construction of the site access and the off-site works of highway improvement shall be undertaken in accordance with plans 4487-D-02B; 4487-D-03B; B2237501/SD/001 (Rev.2); and B2237501/T3/001 (Rev.1).
- 23) No part of the development hereby approved shall be occupied or opened for trading until the approved scheme referred to in Condition 22 has been constructed and completed in accordance with the scheme details.
- 24) No development shall take place, including any works of demolition, 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. It shall provide for:
 - a) The parking of vehicles of site operatives and visitors;
 - b) The loading and unloading of plant and materials;
 - c) The storage of plant and materials used in constructing the development;
 - d) The erection and maintenance of security hoarding;
 - e) Details of working hours;
 - f) HGV delivery times and routing to/from the site;
 - g) Contact details for the site manager.

- 25) For the full period of construction, facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.
- 26) The parking facilities shown on the plans hereby approved shall be surfaced or paved and made available in accordance with the approved plan prior to the occupation of any of the buildings; such parking facilities shall thereafter be permanently retained for that purpose (notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any Order revoking or re-enacting that Order with or without modification).
- 27) Cycling facilities shall be provided in accordance with a scheme to be approved by the Local Planning Authority and the cycling facilities shall be provided in accordance with the approved plan before the use of the premises hereby permitted becomes operative.
- 28) No development shall commence until final details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include, as a minimum:
- a) Information about the lifetime of the development design storm period and intensity (1 in 30 & 1 in 100 year + allowance for climate change - see EA advice <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance and easements where applicable, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of flood levels in AOD;
 - b) The drainage scheme should demonstrate that surface water run-off must not exceed the existing pre-development runoff rate for the corresponding rainfall event and must not exceed 11.2 litres per second. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
 - c) Any works required on or off-site to ensure the adequate discharge of surface water without causing flooding or pollution (which should include the refurbishment or removal of any existing watercourses, culverts, headwalls or unused culverts where relevant);
 - d) Flood water exceedance routes, both on and off site;
 - e) A timetable for implementation, including phasing where applicable;
 - f) Site investigation and test results to confirm infiltrations rates;
 - g) Details of water quality controls, where applicable.

The scheme shall be implemented in accordance with the approved details prior to first occupation or completion of the development, whichever is the sooner. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

- 29) No development shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted which, as a minimum, shall include:
- a) the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company
 - b) arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:
 - i. on-going inspections relating to performance and asset condition assessments
 - ii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;
 - c) Means of access for maintenance and easements where applicable.

The plan shall be implemented in accordance with the approved details prior to first occupation or completion of the development, whichever is the sooner. Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved details.