

Paul Edwards



Communities
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Appeal.

13 August 2007

Mr D Armstrong-Payne
Atisreal UK
Belgrave House
Bank Street
Sheffield
South Yorkshire, S1 2DR

Our Ref: APP/N2739/N/06/1199354

SELBY DISTRICT COUNCIL PLANNING	
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Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77

APPLICATION BY UK COAL LTD

**RETENTION AND REUSE OF SUITABLE BUILDINGS, CAR PARKING AND
INFRASTRUCTURE. CONTINUED USE OF RAIL SIDINGS. GASCOIGNE WOOD
MINE, LENNERTON LANE, SHERBURN IN ELMET, SELBY, LS25 6LH.**

APPLICATION REF: 2005/0673/FUL

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Andrew M Phillipson BSc CEng FICE MIHT, who held a public local inquiry between the 5 and 12 March 2007 into your client's application for planning permission for the retention and reuse of suitable buildings, car parking and infrastructure and the continued use of the rail sidings, in accordance with application number 2005/0673/FUL, dated 27 May 2005.
2. Instead of being dealt with by the relevant planning authority, Selby District Council, the application was called in for decision by the Secretary of State following a direction issued, in pursuance of section 77 of the Town and Country Planning Act 1990, on 5 July 2006.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be granted. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where indicated, and with his recommendations. A copy of the Inspector's report (IR) is enclosed. All paragraph references, unless otherwise stated, are to that report.

Procedural matters

4. After the original application was submitted, the Inspector records that UK Coal submitted a revised layout plan (IR1.4), and that this was drawn to the attention of parties at the inquiry. Like the Inspector, the Secretary of State has considered the

Andrew Lynch
Department for Communities and Local Government
Zone 3/J1
Eland House
Bressenden Place
London SW1E 5DU

Tel:
Fax:
Email:

- Weight to be Accorded to the Existing Buildings;
- Need and Demand;
- Rail Access;
- Other matters.

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Accordance with the Development Plan

12. The Secretary of State notes that it is common ground that the site is within the countryside both literally and in policy terms and that its development for employment purposes would conflict with those policies in the RSS and the local plan which seek to direct employment development to urban areas, or urban extensions and nodes in good quality transport corridors (IR10.36). The Secretary of State has also had regard to the fact that there is no shortage of employment land available in Selby District or Sherburn in Elmet.
13. However, for the reasons set out in IR10.38 to IR10.39, the Secretary of State agrees with the Inspector that the site is located in an area identified as a first priority area for regional regeneration initiatives and, as the proposal would bring employment to the area, it would fit with that policy strand and would also fit with the strand of the RSS that encourages repair and maintenance of existing development, before allocating land for new development. The Secretary of State also agrees that the proposal would gain the most support from the development plan policies that encourage distribution of freight by more sustainable means, including rail; require development to make the best use of existing transportation networks; and seek to ensure that where railway land has the prospect of re-use, that prospect is not prejudiced. For the reasons set out in IR10.40, the Secretary of State agrees with the Inspector that, as the proposal would retain the existing bunds surrounding the site, which are generally accepted as a valuable feature in the local landscape, the proposal would be compliant with local plan policy ENV21. Overall, however, the Secretary of state concludes that the proposal is not in accordance with the development plan taken as a whole. She has therefore gone on to consider whether there are any material considerations of sufficient weight in this case that would lead her to determine it other than in accordance with the development plan.

The Fall Back

14. Like the Inspector, the Secretary of State has taken into account the implications of the restoration condition attached to the original permission for the Selby mine complex in her consideration of any fall back position. The second part of this condition gives the applicant a choice of either restoring the site to its former condition or agreeing an alternative restoration scheme with the county planning authority. For the reasons set out in IR10.18 to IR10.21, the Secretary of State agrees with the Inspector's conclusion in IR10.20 that there is no realistic prospect of the site being restored to its former condition. In particular, she agrees with the view expressed by the Inspector that as it is generally agreed that the planting on the bunds is an asset in landscape terms and should be retained, it is almost inconceivable that UK Coal would remove the bunds and then reinstate sidings and part of an airfield that would have little if any practical purpose. In her opinion, these circumstances do not constitute a true fall back position. She further agrees with the Inspector that if the present application is not successful, it is more likely that UK Coal would favour an alternative restoration scheme involving substantial retention

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Need and Demand

18. For the reasons set out in IR10.29 to IR10.33, the Secretary of State agrees with the Inspector that the evidence of need for the buildings notwithstanding this, the potential that the site affords for rail linked development has been widely recognised (IR10.33). The Secretary of State agrees with the Inspector in IR10.34 that rail linked sites of the quality that Gascoigne Wood offers are rare and whilst the market for them is limited, the Gascoigne Wood site has significant potential to support rail linked manufacture and/or distribution. Overall, the Secretary of State agrees with the Inspector that although a user who would be able to put the rail infrastructure to beneficial use together with the buildings may not be found quickly, she is not convinced that no suitable user would be forthcoming, and agrees with the Inspector that the buildings also have the potential to be adapted to a variety of uses (IR10.34).

Rail Access

19. The Secretary of State concludes, for the reasons set out in IR10.35, that the site is well located on the rail network with sidings that are able to take the longest length of train commonly used on the rail network and that are accessible from both ends. She agrees with the Inspector that concerns that sufficient train paths to service the site may not be available because of local capacity constraints on the railway network are unfounded.

Other Matters

Sustainability

20. The Secretary of State agrees with the Inspector in IR10.42 that in terms of sustainability the site is poorly located with respect to travel to work by means other than the private car. UK Coal have entered into a S106 agreement that would secure a free shuttle bus service for employees and a car sharing scheme with a "guaranteed ride home" (IR10.42). The Secretary of State agrees with the Inspector that this would go some way to compensate for the site's poor location and, as the proposal would directly foster the use of rail for the transport of goods, it should reduce the impact of moving freight in accord with the principles of sustainable distribution. The Secretary of State also agrees with the Inspector in IR10.42, that the proposal would contribute to the sustainable use of resources as it would involve the reuse of existing buildings and infrastructure, and she also agrees that the employment would be welcome in the local economy.

Highway matters

21. For the reasons set out in IR10.58 to IR10.59, the Secretary of State agrees with the Inspector that refusal of planning permission on highway safety grounds would not be justified. Visibility on the site is good and there are no obvious defects and the Secretary of State agrees with the Inspector that the lack of objection from the responsible highway authority reinforces the Inspector's conclusions on this matter (IR10.59).

Planning Obligation

22. For the reasons set out in IR10.52 to IR10.54, the Secretary of State agrees with the Inspector that the measures set out in the S106 agreement should be given

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Formal Decision

28. Accordingly, for the reasons given above, the Secretary of State hereby grants planning permission for the retention and reuse of suitable buildings, car parking and infrastructure and the continued use of the rail sidings, in accordance with application number 2005/0673/FUL, dated 27 May 2005, subject to the following conditions:

1. The buildings to be retained, reused and occupied under the terms of this planning permission comprise the Workshops (Building No 1 on Drg P3GWa), Stores (Building No 2 on Drg P3GWa), Amenity Block (Building No 41 on Drg P3GWa), Covered Stockyard (Building No 51 on Drg P3GWa) and the Gate House (Building No 85 on Drg P3GWa). With the exception of the Gate House these buildings are described as the 'retained buildings'.
2. The existing Amenity Block (Building No 41 on Drg P3GWa) shall only be used for purposes within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and those purposes shall be ancillary to the approved uses on the site.
3. The existing Workshops (Building No 1 on Drg P3GWa) shall only be used for purposes within Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and then only by occupiers using the existing rail facilities on site and their main line connections.
4. The existing Stores (Building No 2 on Drg P3GWa) shall only be used for purposes within Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and then only by occupiers using the existing rail facilities on site and their main line connections.
5. The existing Covered Stockyard (Building No 51 on Drg P3GWa) shall only be used for purposes within Classes B2 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and then only by occupiers using the existing rail facilities on site and their main line connections.
6. No external storage shall be permitted on site with the exception of that which is ancillary to the use of the retained buildings and railway sidings.
7. In the event that any retained building is not used wholly or mainly for rail related uses by occupiers using the existing rail facilities on site and their main line connections within 5 years from the date of this permission, it shall be demolished and removed from site no later than 6 years from the date of this permission and the site shall be restored and landscaped in accordance with a scheme (which shall include a timetable for implementation and management measures) first submitted to and approved in writing by the local planning authority.
8. The existing rail facilities comprising the north and south side rail sidings and their main line connections, signalling and control facilities and the signal box (formerly part of the Rapid Loading Station and not to exceed 12.0m in height), Coal Unloading Station and Conveyor Gantry and Walkway (Building Nos 36 (part), 40 and 66 on Drg P3GWa) shall be retained and shall not be removed. Within 2 months of the date of this permission and every 6 months thereafter the local planning authority shall be provided