

REASONS FOR REQUESTING A HEARING

Section 78 Appeal: Site of West Green Recycling, West Green Way, Monk Bretton, Barnsley, S71 5SN

On behalf of Eric Lidster (E J Lidster (Sales) Ltd)

Against the refusal of planning permission for development described as:

Installation of aggregate wash plant, erection of store, erection of enclosure for external pipework, laying of concrete slab and construction of boundary treatment (retrospective); and cladding to exterior of structure for filter presses for treatment and management of non-hazardous waste.

Town & Country Planning Act 1990 (as amended)

Planning and Compulsory Purchase Act 2004

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With reference to the Criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeals¹, the Appellant considers matters are best addressed by way of the Hearings Procedure, allowing for the main issues to be properly interrogated through the process of questioning, because, as their evidence will demonstrate:

- The issues are complex, given the nature of the Local Authority's reasons for refusal and relevant policies, and the Inspector is likely to need to test the evidence by questioning or to clarify matters in order to obtain a proper understanding of the appeal issues and reach a properly informed decision.
- There is a significant risk of the Inspector not clearly and properly understanding the appeal issues from the appeal documents and a site inspection alone.
- The case has generated a level of local interest appropriate for an informal hearing, with some local interest, but not of a level justifying a public inquiry.
- The Local Authority has an adopted policy for delivering a regeneration framework across a strategic allocation which includes the appeal site (as contained within Policy MU3 of the Barnsley Local Plan). This would see the appeal site given over to *housing and green space*. However according to the objectives of the employment chapter of the Barnsley Local Plan, the appeal site is expected to be retained for employment use (as per Policy E4). However, in the circumstances of the development proposed, the provisions of policy MU3 read together with policy GD1 do not override the employment policy E4, which is an issue that will need to be fully explored through the Inspector questioning and clarifying with the parties and carefully interrogating the evidence and professional opinions on the subject. Furthermore, the delivery of MU3 is uncertain, and the timeframe for delivering the appeal site and surrounding MU3 land in the immediate vicinity to which the Local Authority's reasons for refusal on the subject principally relate is a long way off and the Inspector will have to question and clarify with the parties and interrogate evidence on the realistic timescales for delivery of the relevant MU3 development to have a proper understanding.

¹ <https://www.gov.uk/government/publications/criteria-for-determining-the-procedure-for-planning-enforcement-advertisement-and-discontinuance-notice-appeals/criteria-for-determining-the-procedure-for-planning-enforcement-advertisement-and-discontinuance-notice-appeals>

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At present E4 supports the retention and continued use of the site as an employment site, in view of which a refusal of planning permission is unreasonable.

- There is a need for the Inspector to question and clarify the prospects of MU3 development being delivered on surrounding land in the immediate vicinity (including the realistic likely timing) and the complexity associated with that.
- The balancing exercise, which has been undertaken by the Local Authority is weighted in favour of the objectives of Policy MU3, together with Policy GD1. No consideration has been given to the objectives of Policy E4 in so far as they relate to the appeal site. This is contrary to the provisions of s38(6) of the Planning and Compulsory Purchase Act of 2004 (the “Act”), which requires development to be considered against the development plan when read as a whole and this requires a hearing for the Inspector to question and clarify with the parties’ their views for proper understanding, including interrogating the professional opinions.
- The complexities of the overlapping policy objectives in so far as they apply to the appeal site, as employment land, when read together with the Local Authority’s strategic waste objectives (which predict a shortfall in the provision of waste recycling and treatment facilities) and the objectives of MU3, together with Policy GD1, need to be addressed at a hearing for the parties’ views to be questioned, fully expressed and properly understood by the Inspector.
- When determining the effect of the appeal proposal including its effect on the delivery of MU3, the Local Authority has not weighed in the balance the effect of the Appellant’s existing lawful use rights, at the appeal site, which are well established and this requires a hearing for the parties’ views to be questioned, fully expressed and properly understood by the Inspector.
- The matter of the impact of the appeal proposal on future residents of MU3, when the delivery of MU3 is at best a long way off is complex and there is a need for the Inspector to clarify the issues and interrogate the evidence.

Whilst matters are complex, the Appellant is content that the issues can be thoroughly and adequately examined and considered by the Inspector questioning and clarifying the matters in issue

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with the parties and the parties can present their cases supported by professional witnesses without the need for cross examination.