
Appeal Decision

Site visit made on 28 November 2016

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8th December 2016

Appeal Ref: APP/P1133/W/16/3155663

**Unit 3, Bulleigh Barton Farm Barns, Road to Bulleigh Barton Farm,
Ipplepen, Devon TQ12 5UA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Nigel Dennis against the decision of Teignbridge District Council.
 - The application Ref 16/00755/VAR, dated 14 March 2016, was approved on 9 June 2016 and planning permission was granted subject to conditions.
 - The development permitted is the removal of condition 8 of approval 14/03018/COU to allow permanent use of Unit 3 under classes B1, B2 and B8.
 - The condition in dispute is No 7 which states that:
The use of Unit 3 for B2 use shall cease when Steel Innovations Ltd vacate the premises. The entire building shall then revert to a B1 and B8 use.
 - The reason given for the condition is:
To protect the residential amenity of the occupants of nearby properties.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect of removing the condition in dispute on the living conditions of nearby residential occupiers, with particular regard to noise.

Reasons

3. The barn in question is one of a number of steel-profiled modern barns, some of which are in use for commercial purposes. Barns 1, 2 and 3 were granted planning permission (Ref: 14/03018/COU) for B1, B2 and B8 uses on 3 July 2015, at which time only Unit 3 was in B2 use. Condition 8 of that permission required that the B2 use of Unit 3 should cease within 12 months of the grant of permission and that the whole building should then revert to B1 and B8 use.
4. Prior to the expiry of that 12 month period, the Council granted permission to delete that condition, replacing it with the one in dispute that allows only Steel Innovations Ltd to continue the B2 use. Steel Innovations Ltd manufactures steel stairs, gates, railing and other structural steelwork, using a number of machines, including saws, shears and presses. Acoustic insulation has been provided to walls of Unit 3 which attenuate noise from the premises. The appellant submitted acoustic survey information which demonstrates that the activities carried on by the company can be undertaken without causing

material harm to nearby residential occupiers, and this enabled the Council to conclude that this particular B2 use would be acceptable.

5. There are a number of nearby residential properties. The appellant's own home lies to the south of the appeal site, whilst to the east is Bulleigh Barton Court, comprising 7 dwellings. To the north-west, with buildings in between, is Bulleigh Elms Farm House. However, the property which I consider would be most affected by noise is Red Oaks, a bungalow located to the south of the appeal site. The dwelling is some 75m from Unit 3, although its curtilage is much closer, at about half that distance.
6. The acoustic information provided by the appellant relates only to the noise created by Steel Innovations Ltd, and no evidence has been provided in relation to the potential range of noisy activities which could be generated by other B2 industrial processes. Whilst it is possible that the location of the unit in relation to residential properties and the measures already carried out to attenuate noise would be effective in securing adequate protection against noise that might be created by other potential B2 uses, I have no way of telling based on the evidence before me. Different processes or materials may give rise to greater noise, or lower or higher frequency noise which might have different impacts compared with the existing use. Activities, including loading and unloading, outside of the building may also be noisier. Thus I consider that it would not be appropriate to regard all B2 uses as being potentially acceptable in terms of residential amenity.
7. The area is a fairly quiet one, where ambient noise levels are low, and I consider that the occupiers of nearby properties experience a high degree of peace and quiet, punctuated by the occasional noise which arises from various agriculture-related activities in the area, together with traffic noise on nearby roads and in connection with the commercial activities carried on at Bulleigh Barton Farm.
8. The National Planning Policy Framework aims to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and to mitigate and reduce to a minimum other adverse impacts, including through the use of conditions. To my mind, the imposition of the condition in dispute achieves these objectives, by allowing a business to continue where it has been proved that it can be carried on without adverse impacts on neighbours' living conditions.
9. I recognise that the condition in dispute imposes a limitation on the appellant's freedom to use and market the premises, but in my view, it is justified in the circumstances. Moreover, should a specific B2 user show interest in the premises, an application to vary the condition could be assessed on its own merits. I also note that the Environmental Control District Officer had no objections to the permanent use of unit 3 for B2 uses given the sound insulation works that have been carried out, but as there is no requirement to retain those insulation works, this adds to my concerns about the ability to attenuate satisfactorily noise from the activities of future occupiers.
10. The appellant argues that an unrestricted B1, B2 and B8 use has been approved by the Council in barns to the south east of the appeal site. However, local residents have quoted conditions on this permission which

preclude B2 use other than that carried on by Hunters Brewery. Thus, it appears that the Council has not acted inconsistently in this case.

11. Without substantive evidence to show otherwise, I conclude that the removal of the condition in dispute could result in material harm to the living conditions of nearby occupiers, with particular regard to noise.

Other matters

12. I have had regard to local residents' concerns about traffic, but I consider that, given the modest size of the unit concerned, there is unlikely to be a material difference in the type and volume of traffic between that generated by the current occupiers and other potential B2 users, and thus this does not add to my concerns.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

JP Roberts

INSPECTOR