
Appeal Decision

Site visit made on 10 January 2017

by Julia Gregory BSc (Hons), BTP, MRTPI, MCMI

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

Decision date: 16th March 2017

Appeal Ref: APP/J3720/W/16/3160816

Stockton Hall Court, Rugby Road, Stockton CV47 8HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016.
 - The appeal is made by MTC Partnering against the decision of Stratford on Avon District Council.
 - The application Ref 16/00596/COUO, dated 17 February 2016, was refused by notice dated 15 April 2016.
 - The development proposed is prior approval for change of use from B1(a) to C3 use consisting of 5 no dwellings.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The property comprises two separate parts of an L shaped office complex at Stockton Hall Court. One part of the complex would be converted into 3 dwellings whilst the other would be converted into 2 dwellings. In both parts of the building, elevation and floor plans show alterations to the exterior of the building, changing door and window openings.
 3. The planning statement accompanying the application indicates that the external alterations will be subject to a full planning application to be submitted at a later date. This is re-iterated in the appeal statement of case.
 4. The appellant acknowledges that these alterations are operational development that require planning permission in their own right but says that they are not part of the Prior Approval application.
 5. Class O of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 (GPDO) relates only to the change of use of offices to dwellinghouses. There is no requirement for layout or fenestration or other details to be provided or assessed for prior approval.
 6. Since plans showing such alterations are not required in Prior Approval applications, and they are clearly identified in the planning statement as to be part of a later application, they are not part of the application before me. I shall therefore consider the scheme on the basis of being a material change of use of the building.
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Main issue

7. GPDO Part 3 Class O Paragraph O.2. (1) sets out that the developer must apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required as to:
 - Transport and highways impacts of the development
 - Contamination risks on the site
 - Flooding risks on the site, and
 - Impacts of noise from commercial premises on the intended occupiers of the development.
8. No concerns have been raised in respect of the first three matters. The main issue is the effect of noise from commercial premises on the intended occupiers of the development.

Reasons

9. The property lies within a relatively isolated location in the countryside, some 400m to the north of Stockton and approximately 250m to the east of Rugby Road, which is the A426. However, directly to the north of where there would be three dwellings in part of the converted building, there are commercial buildings which include a commercial car repair and servicing centre. According to the Council the site offers a number of different services including servicing, MOTs, tyres, general repairs and welding.
10. No noise assessment was submitted at the time of the application. Nonetheless, as part of the appeal the appellant has submitted a report on the Existing Noise Climate. That identifies 5 separate businesses at the adjacent site, two of which include general fabrication, a car maintenance and repairs garage and two furniture workshops.
11. The National Planning Policy Framework (the Framework) identifies that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Furthermore businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
12. The appellant's noise survey gives the results of detailed monitoring 16-19 May 2016 and the morning of 10 October 2016. It identifies that low level background noise comprised traffic flows on the Rugby Road. There was however also intermittent noise related to intermittent noisy activity at the industrial units which formed the highest sound levels with no other significant noise sources. The building itself would provide significant shielding from noise and there are no openings apparent on the side of the building facing directly towards the commercial building. Also most activity at the commercial premises takes place within the buildings on which there are shutter doors thereby attenuating the noise from such uses.
13. The noise activities at Kedian Engineering including narrowboat fabrication outside the commercial premises in the early morning indicates a night time adverse impact using BS4142:2014 Assessment. The report identifies that

without controls at source whole house ventilation should be required for all of the dwellings so that windows need not be opened for ventilation. This would mitigate the noise impact. During times when the industrial units were not in operation BS8233:2014 internal criteria would be readily achieved.

14. The dwellings would be in separate ownership from the commercial premises and there is nothing to suggest that hours of operation or the nature of the activity on the commercial site including outside working could be controlled. Indeed the Framework seeks to prevent unreasonable restrictions on existing businesses. There could be working outside normal working hours when people in the dwellings would be likely to be resting.
15. The regularity of activity and noise environment could be significantly worse than it is currently where even now on the dates recorded there were some recorded high level noise events. Noise events could be more frequent and/or of a more disturbing character. All these considerations lead me to conclude that living conditions could be seriously compromised by noise levels generated by the businesses such that there would be an adverse effect on health and quality of life. This would be contrary to the advice in the Framework.
16. Whilst the dwellings would have their principle elevations away from those uses, the close proximity of the properties would still cause the potential for disturbance especially when windows were open or when residents were outside of their properties. I consider the option of sealed windows in a rural location would provide unacceptably oppressive living conditions for future residents. Also they would not mitigate any adverse noise conditions experienced outside the dwellings.
17. For the reasons given above I conclude that the appeal should be dismissed.

Julia Gregory

Inspector