



Appeal Decision

Site visit made on 3 July 2018

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 28th August 2018

Appeal Ref: APP/J4423/W/18/3195114

89 Green Lane, Ecclesfield, Sheffield, SW35 9WY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr T Shah of Swan Homes Limited against the decision of Sheffield City Council.
 - The application Ref 17/04529/ORPN, dated 30 October 2017, was refused by notice dated 8 January 2018.
 - The development proposed is use of an office building as residential accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require that the proposed development be assessed on the basis of its transport and highway impacts; contamination risks on site; flooding risks on site; and impacts of noise from commercial premises on the intended occupiers of the development. The Council's Decision Notice states that the sole matter in contention in this appeal is the impacts of noise from commercial premises on the intended occupiers of the development.
3. A revised version of the National Planning Policy Framework ('the Framework') has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the responses and the Framework in reaching my decision.
4. The description of development given above is taken from the Council's Decision Notice, as this provides a more concise description than the one provided on the planning application form.

Application for costs

5. An application for costs was made by Mr T Shah of Swan Homes Limited against Sheffield City Council. This application is the subject of a separate Decision.

Main Issue

6. The main issue is whether the development would result in unacceptable living conditions for future occupiers with regard to noise and disturbance.

Reasons

7. The appeal building is a 3 storey office block on the north eastern side of Green Lane, which is a busy main road. The site is in close proximity to existing dwellings to the west, and an industrial estate to the north and east. This contains a large number of industrial and commercial premises, and the Council state that many have no restrictions on their hours of operation.
8. The appellant has submitted a Noise Survey in support of the application. This concludes that the proposed front-facing apartments would be exposed to noise from along Green Lane, whereas the rear facing apartments would mainly be affected by noise from the industrial estate. In particular, a haulage yard and a number of industrial units are located a short distance to the north. Bedroom windows serving a number of the proposed rear apartments would face towards these uses.
9. The Noise Survey measured significant commercial noise between 06:00 and 08:00. This is at a time when most people would be likely to be asleep, which would make this noise particularly disruptive. Moreover, the Noise Survey states that the operating hours of the nearby haulage yard are unknown, and it is unclear from the evidence before me to what extent it is in use throughout the rest of the night. In this regard, the Noise Survey was based on monitoring at the rear of the appeal building during 2 nights, which may not be representative. Moreover, a haulage yard operator may vary its hours of operation depending on the contracts that it secures.
10. The Noise Survey identified noise levels when the haulage yard is operating that were 27.7dB above the background sound level, indicating a significant adverse impact. HGV movements are identified as a significant source of noise in this location, and this type of noise would be irregular in its occurrence and intrusive and annoying. Whilst the appellant states that the background sound level was taken at night and is therefore conservative, this difference is nonetheless very significant. Moreover, whilst the appellant states that the sound level is below the upper threshold guidance from the World Health Organization of 55dB, it is only marginally so. Any mitigation provided by the existing belt of trees around the site would also already be accounted for in the assessment.
11. A series of mitigation measures are identified in the Noise Survey that could achieve recommended internal noise levels. These measures would include appropriate glazing and an alternative ventilation system. However, windows would need to be kept closed in order to achieve acceptable internal noise levels. In this regard, the Noise Survey identifies that the area is characterised by significant noise during the day, as well as early in the morning. Future occupiers would therefore need to keep their windows shut for large parts of both the day and night in order to prevent annoyance and sleep disturbance.
12. Future occupiers of the rear apartments would reasonably expect to be able to open their windows without being subjected to significant levels of noise. Even with the proposed mitigation measures this is likely to occur, particularly during

warmer weather. In these circumstances, I consider that a reliance on closed windows and artificial ventilation systems is not a practical or realistic solution in this case.

13. There are 3 existing houses on this side of Green Lane that have a similar relationship with the industrial estate. However, the development would introduce a significantly larger number of dwellings than this. It is also unclear what the internal layout of these properties is and whether, for example, they have rear facing bedrooms and living rooms. The existing properties therefore do not provide a justification for the development in this case.
14. Schedule 2, Part 3, Paragraph W.10(b) of the GDPO requires the decision-maker to "*have regard to the National Planning Policy Framework so far as relevant to the subject of the prior approval, as if the application were a planning application*". In this regard, Paragraph 180 states that planning decisions should "*avoid noise giving rise to significant adverse impacts on health and the quality of life*". Moreover Paragraph 127 aims to "*create places ... with a high standard of amenity for existing and future users*". Whilst I note that the appellant highlights several other sections of the Framework, these are not directly relevant to the subject of the prior approval. In light of this, I consider that the introduction of new dwellings in a location that would be vulnerable to noise and disturbance would not be acceptable in this case.
15. For the above reasons, I conclude that the development would result in unacceptable living conditions for future occupiers with regard to noise and disturbance.

Other Matter

16. The Council's reason for refusal does not refer to contamination risks on the site. Moreover, the Officer Report states that as the application does not involve any ground disturbance or external soft landscaping, contamination is not a consideration in this case. In this regard, the submitted plans do not indicate any alterations to the existing hardstanding that surround the appeal building. I therefore see no reason to depart from the analysis contained in the Officer Report in this case.

Conclusion

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

Thomas Hatfield

INSPECTOR