



Appeal Decision

Site visit made on 27 August 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2019

Appeal Ref: APP/B1740/W/19/3220664

**43 Old Milton Road/54 Crossmead Avenue, New Milton BH25 6DJ/
BH25 6UF**

- 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 A Harris against the decision of New Forest District Council.
 - The application Ref 18/10295, dated 28 February 2018, was approved on 22 October 2018 and planning permission was granted subject to conditions.
 - The development permitted is air conditioning units and lighting (retrospective); cycle store.
 - The condition in dispute is No. 2 which states that: Within two months of the date of this permission a scheme is required to be submitted to the Local Planning Authority, to be approved in writing for the acoustic enclosures for the 2 air handling units in the courtyard area serving the reception and waiting area to reduce noise levels from the plant by at least 10dB as outlined in paragraph 9 of the Environmental Noise Impact Assessment carried out by Hayes McKenzie dated September 2018.
 - The reason given for the condition is: To safeguard the amenity of the adjoining neighbouring properties in accordance with Policy CS2 of the Local Plan for the New Forest District Outside the National Park (Core Strategy).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the disputed condition is necessary to safeguard the living conditions of adjoining residents with regard to noise.

Reasons

3. Air conditioning units have been installed at ground floor offices at the appeal site. There is first floor residential accommodation above the offices that has windows facing onto a courtyard where the two of the air conditioning units subject to condition No.2 have been installed.
4. The appellant has provided an Environmental Noise Impact Assessment¹ (NIA) that analyses the noise likely to be generated by the air conditioning units relative to background noise levels at a location said in the NIA to be comparable to the adjoining residential properties. It notes that background noise levels are dominated by road traffic and wind movement of nearby trees.

¹ Hayes McKenzie – Consultants in Acoustics (24 September 2018): 43 Old Milton Road, Environmental Noise Impact Assessment Report HM: 3276_R01_EXT1

5. The NIA concludes that under normal operating conditions where the units are maintaining a constant internal office temperature, the noise generated is unlikely to be discernible above background noise levels. However, at maximum operating levels they may be audible at a level above which British Standard 4142:2014 'Methods for rating and assessing industrial and commercial sounds' indicates may cause an adverse impact. Whilst I note that the guidance is not specific and that such noise levels would not always cause a disturbance, there is no compelling reason not to follow it.
6. I accept that the NIA has been undertaken on a conservative basis and that the units may infrequently operate at maximum levels, when temperatures are at the extremes of hot or cold. However, there is no substantive evidence about how often maximum operation is likely, its duration or times of the day. As such, I find that there will be times that the units emit noise that would cause disturbance to neighbouring properties, sufficient to harm the occupants' living conditions.
7. Accordingly, I find that the condition is necessary to safeguard living conditions and ensure that the proposal complies with that part of Policy CS2 of the New Forest District (outside the National Park) Core Strategy 2009 that seeks to ensure that new development does not cause unacceptable effects on local amenity, by reason of noise.
8. I note the appellant's comments that the need for planning permission was not appreciated when the units were installed and that an initial complaint to the Council was made amongst a number of other complaints. However, these matters have little to do with the planning merits of the case.
9. Therefore, the appeal is dismissed.

M Bale

INSPECTOR