
Appeal Decision

Site visit made on 19 August 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2019

Appeal Ref: APP/Y2003/W/18/3214276

Unit 1, Byfield Works, Wybeck Road, Scunthorpe, Lincolnshire DN15 8QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 as amended for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Messrs J & P Scott against the decision of North Lincolnshire Council.
 - The application Ref: PA/2018/901, dated 3 May 2018, was refused by notice dated 29 June 2018.
 - The application sought planning permission to retain a change of use of land for the storage of lorries (including hardstanding), the siting of a caravan security office and main office and building of an attenuating bund, without complying with a condition attached to planning permission Ref: PA/2009/1098, dated 1 February 2010.
 - The condition in dispute is No.5 which states that: *Vehicles located on the site shall only be driven or moved within the site or have their engine started between the hours of 7am and 6pm Monday to Friday. No vehicle located on the site shall be driven or moved within the site or have the engine started on weekends or bank holidays.*
 - The reason given for the condition is: *In the interests of the amenity of the area.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal site is located within an industrial estate. The site is used for parking lorries and haulage containers. A bungalow dwelling is located adjacent to the western boundary, and a number of dwellings are situated on St Vincents Avenue on higher ground to the north-west of the site.
3. The appeal proposal would amend the site's operational hours as follows: from Monday to Friday the start time would change from 07.00 to 06.00, and the finish time would extend from 18.00 to 20.00; and Saturday morning would be added, from 08.00 to 13.00.
4. The **main issue** is the effect of the appeal proposal on the living conditions of occupants of neighbouring dwellings, with particular regard to noise.

Reasons

5. The appellants present evidence of a 63dB sound measurement opposite the adjacent bungalow dwelling, recorded on a Monday morning. However, a full noise assessment covering aspects such as instrumentation used, assessor's

qualification, noise frequency, weather conditions, clear statement of time of measurement, and suitability of measurement locations is not provided, and thus to my mind there is not a robust assessment of noise levels. This limits the weight which I attach to this evidence.

6. I recognise that the site is used for parking and not for loading. The appellants' estimate that the proposal would result in approximately 60 minutes noise per 24 hours is noted. Furthermore, I note that the Council's Environmental Health team have indicated they would consider an application to extend operating hours up to 19.00 Monday to Friday, and to include Saturday mornings from 08:00 to 13:00. The socio-economic benefit of employment on the site is also acknowledged.
7. Nevertheless, Condition No.5 provides respite to neighbouring residents from noise emanating from the appeal site during early morning and early evening periods. Moreover, the Council's Environmental Health team indicates that a nearby unit is similarly restricted to the appeal site's current hours from Monday to Friday. This further indicates a respite period for neighbours from noise from commercial and industrial operations in the vicinity is in existence. Overall, there is not substantive evidence before me that units within the area are permitted to operate before 07.00 and after 19.00 on weekdays.
8. I heard, during my site visit, that noise from the appeal site is readily audible to the adjacent bungalow dwelling. Moreover, noise clearly rises up from the area of industrial and retail units, including from the appeal site, to the adjacent dwelling located on higher ground on St Vincents Avenue. Given this, it is anticipated that the combined noise of HGV engines being started, lorries being moved and associated activity would be intrusive to occupants of the dwellings adjacent to the appeal site, during the particularly noise-sensitive hours after 19.00 and before 07.00. It is also noted that whilst only part of the appeal site is currently used for parking, the proposal is for the whole of the site. As such, the future volume of lorry activity and noise on the site may increase beyond current levels.
9. I find that the noise intrusion arising from proposed operations between 06.00 and 07.00, and 19.00 and 20.00, on weekdays would erode neighbouring residents' respite from commercial and industrial noise during early morning and early evening periods. Therefore, the proposal would have an unacceptable adverse effect on their living conditions, in respect of noise.
10. In conclusion, the proposed variation of condition would harm the living conditions of neighbouring residents. As such, it would conflict with Policy DS1 of the North Lincolnshire Local Plan (2003) which seeks, amongst other things, to ensure that development safeguards the living conditions of residents.

Conclusion

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

William Cooper

INSPECTOR