



Appeal Decision

Site visit made on 29 October 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal Ref: APP/N3020/W/19/3234068

13, 15 & 17 Catton Road, Arnold, Nottingham NG5 7JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Theakstone (Vaux Joinery Ltd T/A Express Shop Equipment) against the decision of Gedling Borough Council.
 - The application Ref 2018/0925, dated 17 September 2018, was refused by notice dated 14 June 2019.
 - The development proposed is described as a 'retrospective application for material change of use from B1 to B2. This applies to 13, 15 and 17 Catton Road'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the site address used in the banner heading from the decision notice and the appeal form, as that used on the original application form referred to a different unit on the same street which was not in fact covered by the proposal.
3. The Council's decision notice referred only to Policy LPD32 of the 2018 Local Planning Document Part 2 Local Plan (the LPD). However, the Council's officer report also refers to Policy LPD44 of the LPD, which relates to the retention of employment uses. This policy is also relevant for the purposes of determining this appeal, and as the appellant has had the opportunity to comment on the Council's officer report I do not consider their interests would be prejudiced if I have regard to it.
4. The premises are already being used for the purpose for which permission is being sought, and I am therefore considering the appeal retrospectively. I have had regard to this in making my decision.

Main Issue

5. The main issue is the effect the use of the premises as a joinery workshop within Use Class B2 has on living conditions of nearby residents, with particular regard to noise.

Reasons

6. The appeal site covers concerns three separate but adjacent industrial units, which are situated within a small established industrial estate. The appellant operates a joinery business manufacturing shop fittings from the three units, as well as other premises nearby, and operates various cutting and dust extraction equipment. To the south and east is a residential area, and the gardens of several neighbouring houses on Needham Road and Wardle Grove directly abut the appeal site, with boundaries mainly comprising open wire mesh or timber panel fencing. The business has been operating from the site for some years, but following a complaint to the Council about noise nuisance the appellant was advised to apply for planning permission for a change of use to Use Class B2. No other premises in the industrial estate operate with a B2 permission. There are no physical works proposed as part of the change of use.
7. I visited the appeal site in the middle of the working day and have no reason to consider that what I observed was untypical of the appellant's operations. The cutting machines and other equipment were operating in each of the three units. The doors of all three units were open, as I understand to be the usual practice of the business. Noise from the machinery was distinctly, if faintly, audible from the footpath on the western side of Needham Road, which is on the far side of the neighbouring houses from the appeal site. This was particularly the case at the gap between Nos 9 and 11, where the appeal site yard is open to the rear gardens of the houses on Needham Road.
8. A noise assessment report submitted with the planning application indicates that 'doors open' operation would result in a predicted noise level at the rear wall of the nearest dwellings on Needham Road of 7dB above the background noise level. BS4142:2014¹ advises that 'a difference of around +5dB is likely to be an indication of an adverse impact depending on the context'.
9. The noise assessment report indicated a predicted noise level at the rear of the Needham Road dwellings of 2dB above the background noise level if the business carried out its operations with all doors and windows closed. BS4142:2014 indicates that 'the lower the rating level is relative to the measured background sound level, the less likely it is that the specific sound source will have an adverse impact or a significant adverse impact'. The Council indicated that it would consider this acceptable, and so would require the business to operate with doors and windows closed at all times. The appellant has indicated that they would not be able to do this while also complying with its obligations towards its employees' health and safety.
10. I note that the Council did not raise any 'in principle' objections to the B2 use, and indeed that its development plan encourages the expansion, conversion or redevelopment of land and premises for employment uses on allocated employment sites and protected employment areas as long as there is no significant adverse impact on the living conditions of nearby residents. It is quite possible that there are other measures such as insulation or acoustic fencing, or improved ventilation and extraction equipment, which could be used to ensure that noise levels at the site boundary are kept within acceptable limits, and which would therefore allow the business to continue to operate without causing unacceptable harm to the living conditions of residents in the

¹ BS 4142:2014 Methods for rating and assessing industrial and commercial sound

adjoining streets. However, as it stands no such mitigating measures are included in the proposal before me.

11. I therefore conclude that, because of the noise arising from the operation of machinery, the use of the premises as a joinery workshop within Use Class B2 causes unacceptable harm to the living conditions of nearby residents. Consequently it conflicts with Policy LPD32 of the LPD, which seeks to ensure that development does not have a significant detrimental effect on nearby residents' amenity, including because of the impact of noise. For the same reason, it also conflicts with Policy LPD44 of the LPD which, while supportive of the retention and expansion of employment uses within protected employment areas, also requires proposals to be compatible with surrounding uses including housing.

Other matters

12. The Council and appellant were unable to agree on what would be suitable operating hours for the units in order to protect surrounding residents from the effects of noise at inappropriate times, although as I have found that the use in its current form causes unacceptable harm it has not been necessary for me to consider this matter in detail.
13. I also note the appellant's point that they are operating a long-established and successful business, and accept that both the National Planning Policy Framework and the Council's development plan give considerable weight to supporting and sustaining the local economy. However, the noise arising from the B2 use of the site as currently configured and operated causes significant harm to living conditions for neighbouring residents which is not outweighed by the economic benefits arising from the use.

Conclusion

14. For the reasons given above the appeal is dismissed.

M Cryan

Inspector