



Appeal Decision

Site visit made on 21 August 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2019

Appeal Ref: APP/Q5300/W/19/3228714 111 Green Lanes, Southgate N13 4SP

- 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 Mr Xhevdet Elezaj against the decision of the Council of the London Borough of Enfield.
 - The application Ref 18/01456/FUL, dated 11 April 2018, was refused by notice dated 18 February 2019.
 - The development proposed is change of use of restaurant (Use class A3) to restaurant with takeaway (Use class A3/A5) with removal of external extractor flue system and installation of internal extractor system with flue vent to rear elevation.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use of restaurant (Use class A3) to restaurant with takeaway (Use class A3/A5) with removal of external extractor flue system and installation of internal extractor system with flue vent to rear elevation, 111 Green Lanes, Southgate N13 4SP, in accordance with the terms of application, Ref 18/01456/FUL, dated 11 April 2018 and subject to the attached schedule of conditions.

Main Issue

2. I consider that the main issue is the effect of noise and vibration from the internal extraction equipment, resulting from the proposed change of use, on the living conditions of occupiers of nearby properties.

Reason

3. The site is located on the western side of Green Lanes close to the busy junction with Melbourne Avenue. The site comprises a single storey commercial building within a parade of mixed shops and food and drink outlets.
4. The site is currently used as a café and restaurant with seating indoors and a small number of table on the road frontage. The application sought a change of use from a restaurant to a restaurant with additional take away. As part of the application the existing equipment and flue would be removed and replaced with internal extraction equipment with a vent to the rear elevation.
5. It is accepted by the parties that the principle of the change of use is acceptable. Nonetheless, the Council refused the application following consultation with Environmental Health, as, in their view, the noise assessment

lacked calculations. However, the Council has not provided specific details of what these calculations should show.

6. The location of the appeal site within this heavily trafficked local commercial area, undoubtably means that some level of noise and disturbance are to be anticipated. I saw from my site visit that the single storey row of buildings, that include the appeal site, are in commercial use. However, there were a number of premises in Green Lanes to the north, that appeared to be in residential use at both first and second floor level. The occupants of these dwellings and those in Melbourne Avenue, to the rear of the site, are fairly close.
7. The Appellants have submitted an acoustic report by Daniel Lindstrom from 247 Acoustic Services, dated 6 August 2018. The report indicates that the noise assessment has been carried out in accordance with the British Standard (BS) 4142. This shows that an unmanned environmental noise survey was carried out, under reasonable weather conditions, between 1015 on 13 July 2018 and 1430 on 15 July 2018. This survey was conducted from the roof of the appeal property, as being representative of the nearest noise sensitive receptor (NSR) at the surrounding residential premises and those slightly further to the rear.
8. The survey found that noise levels from the proposed extraction equipment would have a noise rating Level of 30dB LAEeq, which would fall below the typical background sound pressure level of 40dB LA90. This means that the A sound levels from the equipment are less than the background noise. The nature of the sound from the equipment is not considered to be impulsive or have other characteristics that would make it particularly noticeable in its urban environment. Moreover, the closest dwellings to the appeal site are further away from the survey site and therefore the noise would be less at these properties than at the survey site.
9. The report goes on to advise that vibration from the equipment is not expected, although suggests that precautionary measures are taken to install anti vibration mounts wherever possible. I agree that these could be reasonably secured by a suitably worded condition.
10. I have no evidence to suggest that the noise survey has not been carried out by a competent person or that the results are incorrect. I therefore find that the proposed extraction equipment would not lead to additional and unacceptable levels of noise that could significantly affect the living conditions of existing occupiers. The proposal therefore does not conflict with Policies DMD32 and DMD 68 of the Improving Enfield Development Management Document (2014), and policy CP32 of the Enfield Plan Core Strategy (2010) and 7.15 of the London Plan (2016). These policies seek to ensure that new development minimises and avoids significant adverse noise impacts on health and quality of life.

Other matters and conditions

11. The Council have not provided details of any conditions they consider should be imposed. Nonetheless, in addition to the standard implementation condition, I have specified the approved plans as this provides certainty. In the interests of protecting the living conditions of neighbours I have included a condition to ensure that anti vibration mounts are provided and maintained.

Conclusion

12. For the above reasons and having had regard to all of the matters raised the appeal is dismissed.

Hilary Orr

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out fully in accordance with the approved plans: Site Location and Block Plan dated March 29 2018; Existing and proposed Ground Floor Plans dated March 29 2018; Existing and Proposed Ground Floor Plans dated March 29 2018; and Design and Access Statement dated April 2018.
3. Before any internal flue extraction equipment is used on the premises, it shall be fitted with anti-vibration mounts and mounted in a way which will minimise transmission of structure-borne vibration in accordance with details which have previously been submitted to and approved in writing by the local planning authority. These measures shall be retained thereafter.