The Planning Inspectorate

Appeal Decision

Site visit made on 28 July 2020

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2020

Appeal Ref: APP/U4230/W/20/3249190
16 Hilton Square, Swinton M27 4DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Mr Zubair Banduka against the decision of Salford City Council.
- The application Ref 19/74300/P3JPA, dated 15 October 2019, was refused by notice dated 11 December 2019.
- The development proposed is conversion of B1 (a) offices to residential (C3).

Decision

1. The appeal is dismissed.

Procedural Matter

2. Class O of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), hereinafter the GPDO, grants planning permission for the change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order , to a use falling within Class C3 (dwellinghouses). It is not in dispute that the building was in a use falling within use Class B1(a) on 29th May 2013, and that the appeal site is not within a safety hazard area or military explosives area, nor is the building a listed building or scheduled monument. The Council accept that the change of use would constitute permitted development.

3. The provisions of Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015) require the local planning authority to assess the proposed development on the basis of transport and highway impacts of the proposed development; contamination and flooding risks on the site; impacts of noise from commercial premises on the intended occupiers. The Council resolved that its prior approval was required, and this was subsequently refused. It is common ground between the main parties that the proposed development would not have any adverse effects in terms of transport and highways and that there are no risks to the development from contamination or flooding. The sole matter in dispute is the efficacy of the noise mitigation measures proposed by the appellant and the effect that noise from nearby premises in commercial use may have on the future residents of the proposed flats.

Main Issue

4. Therefore, the main issue in this appeal is the effect of noise from nearby commercial premises on the future occupiers of the proposed development.

Reasons

5. The appeal site is a two storey office building on Hilton Square a street predominantly in industrial and commercial use, with an electroplating plant and commercial car wash located opposite the site. To the west off Heron Street is a traditional terrace of residential properties which back onto the site, while to the north is a single detached dwelling.

6. Both parties recognise that the appeal premises will be subject to noise from both the car wash and the electroplating plant as well as the passing traffic on the A666 Bolton Road. Paragraph 182 of the National Planning Policy Framework (the Framework) seeks to ensure that new development can be effectively integrated with existing businesses and community facilities, and that such businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Paragraph 182 further states that where the operation of an existing business would have a significant effect on new development nearby, the applicant/appellant should be required to provide suitable mitigation as part of the development.

7. The appeal has been supported by the provision of an acoustic report prepared by Braiden Acoustics Ltd which advises that the introduction of mechanical ventilation and new double glazing, to prevent the ingress of noise, would achieve a suitable living environment for future occupiers.

8. Although the appellant considers that Part 3, Class O makes no reference to living conditions and that there are no policy preclusions on sealed windows, in making a determination on a prior approval application, decision makers are required to have regard to the provisions of the Framework, so far as they are relevant to the proposal. Paragraph 127 of the Framework requires that new development should create places which promote health and wellbeing, with a high standard of amenity for existing and future users. The Planning Practice Guidance also identifies that if proposed noise mitigation relies on windows being kept closed this may have an effect on living conditions.

9. The electroplating plant has a series of mechanical ventilation fans which I am advised are operating on a 24 hour basis such that the appeal property is subject to a level of noise which significantly exceeds the levels which the WHO advise would be harmful to human health. While the introduction of mechanical ventilation and double glazing would reduce internal noise levels this would only be achieved should the windows remain closed. I do not regard this as a satisfactory solution in achieving suitable living conditions for the future occupiers.

10. I conclude that the appeal proposal would not suitably address the effect of noise from nearby commercial premises on the future occupiers of the proposed development. It would conflict with the relevant requirements of the Framework which seeks to ensure that new development can be effectively integrated with existing businesses and community facilities; that where the operation of an existing business would have a significant effect on new development nearby, suitable noise mitigation is provided as part of the

development; and that new development provides a high standard of amenity for future occupiers.

Other matters

11. The appellant has also raised various other matters including, the sustainability of the location, the significant need for housing and that this appeal would facilitate the re-use of a vacant building all of which are strongly supported by the positive drive from the government to deliver new housing.

12. I do not consider these factors outweigh the principal concern I have identified which would lead to the provision of housing that does not provide a high standard of amenity for future occupiers.

Conclusions

13. The appeal is dismissed.

Edwin Maund

INSPECTOR