
Appeal Decision

Site visit made on 21 December 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/N2739/W/21/3282161

Field Opposite Electricity Sub Station, Rawfield Lane, Fairburn, Selby LS25 5LD

- 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 Tina Best against the decision of Selby District Council.
 - The application Ref: 2021/0075/FUL, dated 13 January 2021, was refused by notice dated 30 June 2021.
 - The development proposed is described as a 'change of class use and conversion of a single storey stables into a single storey one bedroom detached bungalow at Rawfield Lane, South Milford.'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the Council made its decision and prior to the appellant making the appeal, the revised National Planning Policy Framework (Framework) has been published. It has been referred to in the appeal submissions and I have taken it into account in my decision.

Main Issue

3. The main issue is whether the proposal would provide a suitable living environment for the future occupier(s) by way of noise.

Reasons

4. The appeal property comprises a small stables building that is accessed via a gated track off Rawfield Lane. The land between the building and the site frontage is in use as an associated paddock. The boundaries are delineated by hedgerows. On the opposite side of the road, there is a large electricity substation that is served by a number of overhead power lines and associated pylons. The A1(M) is found to the west of the site and is separated from it by a large open field. The A1(M) forms a major highway as part of the strategic road network. Apart from the electricity infrastructure and the A1(M), the area in the vicinity of the site is largely countryside in character.
5. When the level of traffic and types of vehicles that the A1(M) carries is considered with the largely open form of the intervening land, there is the potential for noise from the associated traffic to impact on the living conditions

of the occupier(s) of the proposed dwelling. Accordingly, the appellant carried out noise monitoring and this informed the Noise Impact Assessment Report (NIA Report) that was submitted during the course of the planning application. Subsequent to the Council's decision, the appellant also prepared a rebuttal letter dated 1 September 2021 on noise matters. I have considered both documents in my deliberations.

6. The NIA Report finds that the predicted garden daytime noise levels are likely to be marginally (1 dB) above the 55 dB WHO guideline¹ noise level for people being seriously annoyed. The NIA Report also finds that areas of the development have a 'Low – Medium' risk of adverse effect without mitigation. Internal noise levels will likely exceed desired noise criteria when relying upon 10-15 dB via partially open windows.
7. The appellant has pointed to where BS8233:2014² accepts a higher upper guideline value for noise. This is on the basis that the more typical level is not achievable in all circumstances where in noisier environments development might be desirable. For such development to be desirable, though, needs some justification as it would result in a situation where occupier(s) would be the subject to a level of noise that would be otherwise unacceptable. It is not apparent why the proposal would constitute such a development. Where BS8233:2014 accepts a higher upper guideline value does not reasonably apply in this case.
8. The noise levels in the NIA Report are necessarily precautionary in nature but even allowing for the convention of averaging such levels, there would be times of the day where the noise levels will be over, as well as under, the guideline level. Where exceedances would occur, this would be of detriment to the living conditions because the occupier(s) would be experiencing a level of noise that would not ordinarily be expected at a residential property. I am therefore not persuaded that undue annoyance would not occur.
9. In relation to mitigating against external noise in the proposed garden, this is largely dependent on the screening qualities of the appeal property. Yet, with its proportions, it is open to question how effective it would be in mitigating such noise. Nor would it enclose all parts of the boundary that is on the side of the site nearest the A1(M). The NIA Report also discounted the use of an acoustic barrier.
10. The NIA considers that a scheme of sound insulation is required so that the internal noise criteria of BS8233:2014 is achieved. A trickle ventilation system with the windows remaining closed is proposed in order for the sound insulation to be effective. However, despite the provision of such ventilation, future occupier(s) may wish to open the windows for access to fresh air or for other reasons. This would be most apparent during the warmer summer months, when the occupier(s) may understandably wish to keep the windows open, including at night when the noise levels would be likely more apparent.
11. Relying on the future occupier(s) to either keep the windows closed or alternatively open the windows but then suffer an untoward level of noise would be far from a satisfactory state of affairs. Achieving adequate living conditions is a legitimate planning matter, whether or not the future

¹ World Health Organisation, Assessment of Daytime Noise Levels in Outdoor Living Areas

² BS8233:2014, Guidance on sound insulation and noise reduction for buildings

occupier(s) may be agreeable to such an approach as regards noise, including the appellant. That noise from commercial sources would not be unsatisfactory, including a proposed development of gas engines³ nearby that I have been referred to, does not address that the levels of noise from traffic using the A1(M) would have an unacceptable adverse impact on living conditions.

12. I conclude that the proposal would not provide a suitable living environment for the future occupier(s) by way of noise. As such, it would not comply with saved Policy ENV1 of the Selby District Local Plan (2005) (LP) where it is concerned with the effect on the amenity of adjoining occupiers. It would also not comply with saved Policy ENV2(A) of the LP where it states that proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, amongst other pollution related considerations, will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme.
13. The proposal would also not accord with paragraph 130 of the Framework where it is concerned with a high standard of amenity for existing and future users.

Other Matters

14. The proposal would not be unacceptable in character and appearance terms as it would involve a conversion of an existing building with external works that would be fairly limited in nature. It would not constitute inappropriate development in the Green Belt. There is no dispute over the suitability of the conversion and on land contamination. Such matters attract neutral weight as they are required in order for a development to be not unacceptable in planning terms.
15. I am not unsympathetic as regards the purported matters that the appellant has raised in relation to how the planning application was dealt with. However, these are not for my consideration as my decision is based on the planning merits of the proposal itself. The same applies in respect of that the application was a resubmission that sought to address the previous concerns of the Council.

Conclusion

16. I have considered all matters that have been raised, but none would outweigh that the proposal would not provide a suitable living environment for the future occupier(s) by way of noise. Accordingly, I conclude that the proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, the appeal should be dismissed.

Darren Hendley

INSPECTOR

³ Council ref: 2020/0594/FULM