



Appeal Decision

Site visit made on 25 January 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/V5570/W/21/3281398

Units A-D and land to the rear of Units 3-10, Bush Industrial Estate, Station Road, Islington, London N19 5UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Zenobe Energy against the London Borough of Islington.
 - The application Ref P2020/2459/FUL, is dated 14 September 2020.
 - The development proposed is installation of a container to house electrical equipment and a Distribution Network Operator substation.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a container to house electrical equipment and a Distribution Network Operator substation at Units A-D and land to the rear of Units 3-10, Bush Industrial Estate, Station Road, Islington, London N19 5UN in accordance with the terms of the application, Ref P2020/2459/FUL, dated 14 September 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - GA01.01 rev R3 - location plan
 - GA01.02 rev R3 - block plan
 - GA01.03 rev R3 - existing plan
 - GA01.04 rev R3 - proposed plan
 - GA02.01 rev R01 - substation details
 - GA02.02 rev R01 - container details
 - 3) The design and installation of the two pieces of electrical infrastructure hereby permitted shall be such that when operating, the cumulative noise level LAeq Tr arising from the development, measured or predicted at 1m from the façade of the nearest noise sensitive premises, shall be at a rating level of at least 5dB(A) below the background noise level. The measurement and/or prediction of the noise must be carried out in accordance with the methodology contained within BS 4142:2014.

Application for costs

2. An application for costs was made by Zenobe Energy against the London Borough of Islington. This application is the subject of a separate Decision.

Procedural Matters

3. The original application form gave the address as Unit A to D, Bush Industrial Estate. However, the proposed substation and container would be sited in two separate locations within the estate, with the substation on land to the rear of Units 3-10, and the container adjacent to Units A-D. The proposed location of the structures is reflected in the address I have used above, which corresponds with that used on the appeal form and committee report.
4. The appeal was lodged after the Council failed to make a decision within the required period. A report was subsequently presented to the planning committee in November 2021, where it was resolved that, had the Council been in a position to determine the application, it would have granted planning permission. In considering this proposal, I have taken account of the Council's position as well as the objections and comments that were submitted during the application and appeal stages.
5. From the large number of representations, it is clear that there are significant local concerns about proposals to use Units A-D as a distribution depot, which are being pursued by Ocado. Objections to that scheme have prompted many of the comments on the appeal proposal. I understand the wider concerns, but in deciding this appeal I must focus on the proposal before me, for a proposed substation and container to house electrical equipment.

Main Issues

6. In relation to the appeal proposal, concerns were raised about the principle of the development in this location, and the potential for it to impact on the living conditions of neighbouring occupiers, including children attending Yerbury Primary School. In addition, comments were made regarding visual impact of the proposed containers.
7. The main issues, therefore, are:
 - Whether the proposed development would be an appropriate use in this location;
 - The effect on the living conditions of neighbouring occupiers; and
 - The effect on the character and appearance of the area.

Reasons

Whether an appropriate use in this location

8. Bush Industrial Estate is an established employment area located on a strip of land which runs alongside a railway line. The site is within in a densely built up urban area, close to a number of residential streets including Wedmore Gardens and Foxham Road. Yerbury Primary School and Whittington Park are adjacent to the site, with a large development of student accommodation also nearby. Units A-D are contained within a large building at the north-eastern end of the Industrial Estate, adjacent to the railway line and set slightly apart from the other units on the estate, which front directly onto Station Road.
9. The appeal is concerned with two structures which would house electrical equipment. The Distribution Network Operator substation would be positioned at the south-west end of the industrial estate, on a narrow strip of land

between Station Road and the railway line. It would take the form of a box formed of glass reinforced plastic, measuring 3m x 3m, with a height of 3.5m. The substation would enable the Distribution Network Operator to independently access equipment providing the electrical connection between the wider industrial estate and the national grid.

10. The container to house electrical equipment would be sited on an area of hardstanding adjacent to Units A-D, perpendicular to the south-west facing elevation. The container would be formed of similar materials to the substation, with a footprint of 11m x 3.5m and a height of 3.5m.
11. The proposed development would provide additional electricity capacity for Units A-D. These units are currently served by a 550kVA power supply from an existing substation on site, which is shared 50/50 with another unit on the site. The appellant has explained that this existing power supply is not suitable to meet modern day requirements for the site, regardless of the user.
12. The proposal would increase the power supply to an existing industrial building, on a site which has been designated by the Council as an Employment Growth Area (Policy DM5.1 of the Islington Development Management Policies 2013 (DMP)). I understand concerns that the proposal is part of a wider strategy to secure the use of a site for an Ocado distribution depot, and acknowledge that the proposed electricity capacity improvements may benefit such a use.
13. However, the lawful use of Units A-D is for light/general industrial purposes, and such uses could also benefit from the proposed enhancements to power supply. Many industrial uses have significant power requirements, and the need for a good quality electricity supply is likely to be increasingly important in future, given the current move towards greater use of electricity for energy purposes and to power vehicles.
14. By upgrading the electricity capacity, the proposal would help modernise the site and would be acceptable in relation to its existing lawful use for industrial purposes. Concerns that the proposal may also benefit a distribution use, which does not have planning permission and is currently unlawful, do not provide a reason to refuse the appeal.
15. I conclude that, in principle, the proposed development would be an acceptable use in this location. It would be consistent with DMP Policy DM5.1 which encourages the intensification, renewal and modernisation of existing business floorspace within Employment Growth Areas. By providing increased electricity capacity which would allow for electric vehicle charging, it would also support the move towards a low carbon circular economy which Policy GG6 of the London Plan seeks to achieve.

Living conditions

16. Many of the objections relate to wider concerns about proposals to use the site for a distribution depot, but that does not form part of the appeal before me. I have restricted my assessment to impacts associated with the proposed container and substation.
17. Once the proposed structures were in place, there would be very few HGV or other traffic movements associated with their maintenance or operation. Any indirect effects on air quality, or the safety of other road users including cyclists and pedestrians, would therefore be extremely limited.

18. The development would not in itself cause pollution, and by allowing any future users of the site to electrify their vehicles, could help to limit emissions from traffic associated with any future operation of the site.
19. Given the minor scale of the proposed development, any noise associated with its initial installation would be short-lived. However, electrical equipment can emit low-level noise, so potential noise impacts during the operation of the proposed development also need to be considered. The Council's Environmental Protection Officer commented that, owing to the distance from neighbouring properties, and taking account of other nearby noise sources, noise emitted from the proposed electrical equipment would be unlikely to cause harm. This view is corroborated in the noise assessment, which concluded that sound from the proposed development would be unlikely to be audible at the nearest houses, or at Yerbury Primary School.
20. The noise assessment appears to be robust, and I am satisfied that the proposal would be unlikely to cause harm to living conditions as a result of noise. Notwithstanding that, a condition requiring that noise be kept within specific limits would provide the Council with additional control, should any issues arise during the operation of the proposed electrical equipment.
21. Substations are common features within urban environments, and there is nothing to suggest that the proposed installation would present any particular fire hazard. I have no reason to disagree with the Environmental Protection Officer's view that the proposed electrical equipment would not result in harm to surrounding occupiers as a result of generation of electro-magnetic fields.
22. I conclude that the effect of the proposal on the living conditions of surrounding occupiers would be satisfactory. The proposal would comply with the amenity considerations contained in DMP Policy DM2.1 and paragraph 130f) of the National Planning Policy Framework.

Character and appearance

23. The proposed substation and container would be located within an existing industrial estate which is characterised by large buildings and areas of hardstanding. The substation would be a small feature, and although the container would be somewhat larger, it would appear modest in scale compared with the adjacent industrial scale building. From Station Road and other surrounding vantage points, both public and private, neither structure would be particularly noticeable, with screening provided by surrounding buildings and high palisade fencing. Both structures would have a functional appearance which would not be out of place in this location.
24. The proposed development would not cause harm to any heritage assets, and its scale and appearance would be appropriate within the surrounding context. Consequently, the proposal would not cause harm to the character and appearance of the area. It would be consistent with Policy CS9 of the Islington Core Strategy 2011, which is concerned with architecture and urban design.

Other Matters

25. A number of representations have expressed frustration over the way in which the proposals to use Units A-D as an Ocado distribution centre have been pursued, with suggestions that the current appeal proposal is part of a strategy to further promote that cause. Whilst I appreciate the concerns and

frustrations expressed, I am only able to deal with the appeal before me, which relates solely to the provision of electrical equipment. For the reasons set out above, the proposed development is acceptable in its own right, having regard to the existing, lawful use of the site. Allowing this appeal would not alter the existing restriction on warehousing uses at the site, which is afforded by condition 3 of planning application ref 831626.

26. I note comments about inaccurate and missing information, but I am satisfied with the level of detail provided, which is sufficient for me to determine the appeal.

Conditions

27. In addition to the standard implementation and plans conditions, the Council has suggested a condition to limit noise levels during the operation of the proposed electrical infrastructure. The suggested condition would provide additional certainty and safeguard the living conditions of surrounding occupiers throughout the operational lifetime of the development. The condition meets the test of reasonableness and I have therefore imposed it.

Conclusion

28. For the reasons set out above, the appeal is allowed and planning permission granted.

R Morgan

INSPECTOR