



Appeal Decision

Site visit made on 10 December 2021

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2022

Appeal Ref: APP/P2935/W/21/3280437

Asda, Main Street, Tweedmouth TD15 2DS

- 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 Asda Stores Limited against the decision of Northumberland County Council.
 - The application Ref 19/04660/FUL, dated 25 November 2019, was refused by notice dated 16 April 2021.
 - The development proposed is Installation of Air Handling Unit within supermarket service yard.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed the reference to 'retrospective' from the revised description of development agreed between the parties because under S.55 of the Act, development is described as the carrying out of a building operation, and not retention. For the avoidance of any doubt, the Air Handling Unit (AHU) has been installed and at the time of the site visit was operational, consent is sought retrospectively.

Main Issue

3. The main issue is the effect of the external plant on the living conditions of the occupiers of neighbouring properties, with particular regards to noise.

Reasons

4. The appeal relates to the installation of new plant, referred to as a Flair air handling unit (AHU), in the service yard of an existing Asda store. The service yard is situated to the side of the building. Residential properties are located to the side and rear of the yard, albeit at a higher level.
5. In support of the appeal, the appellant has submitted a number of noise surveys and reports. However, the submitted documents do not identify robustly determined noise levels. The noise levels identified in the Acoustic Consultancy Partnership Ltd (ACP) report dated 17 September 2018 are identified by the appellant as being "artificially low and are not representative of the noise climate" due to the location chosen for the monitoring and the noise levels identified in the ACP report dated 3 February 2020 are acknowledged by the appellant to have been affected by "increasing wind speed and traffic on the surrounding roads". Furthermore, I note that the AHU was continuously running during these latter measurements.

6. While the (ACP) report dated 3 February 2020 concludes that “the AHU is operating at less than 44dBA at 20m” and less than 38dBA at Burrie House, identified as being the closes noise sensitive receptor, it is my planning judgement that the poor weather conditions at the time of the survey prevented the identification of robustly determined noise levels for the area and the AHU.
7. At the appeal site visit the AHU was remotely shut down and I noted a distinct change in the noise levels in the area around the appeal site and at the nearby residential properties. The representations from residents near to the site clearly refer to noise from the AHU harming their living conditions.
8. On this basis I am not satisfied that the evidence before me demonstrates that the appeal scheme would not have a significant detrimental impact on the living conditions of the occupiers nearby.
9. Since the submission of the appeal, the production of a new local plan has progressed, with the Publication of Inspectors' Report on 16 February 2022 I therefore afford Policy QOP2 of the emerging Northumberland Local Plan (eNLP) some weight. The policy seeks to ensure that development would not result in unacceptable adverse impacts on the amenity of neighbouring land uses.
10. To conclude, for the reasons detailed above I find that the proposal is contrary to Policies F1, F31 and W6 of the Berwick upon Tweed Local Plan (BuTLP) and emerging policy QOP2 of the eNLP that, amongst other matters seeks to prevent development that would adversely affect the amenity of surrounding uses.
11. The Council also referred to Policy F5 of the BuTLP, however this Policy refers to scale, density, height, massing, layout, materials, hard and soft landscaping of new development and as such is not relevant to the living conditions of the occupiers of neighbouring properties and thus, I do not find that the appeal scheme is contrary to Policy F5.

Conclusion

12. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR