



Appeal Decision

Site visit made on 30 March 2022

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 APRIL 2022

Appeal Ref: APP/R3650/W/21/3280303

1B Unicorn Trading Estate, Haslemere GU27 1DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the
 - Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Mr Patrick Brennan against the decision of Waverley Borough Council.
 - The application Ref PRA/2021/01331, dated 3 June 2021, was refused by notice dated 23 July 2021.
 - The development proposed is described as prior approval for conversion of offices to a single one bedroom dwellinghouse with existing windows and skylights providing adequate natural light to all habitable rooms. An adequate natural light survey with illustrations is attached.
-

Decision

1. This appeal is dismissed.

Preliminary Matters

2. Under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the change of use from an office to a dwellinghouse subject to limitations and conditions.
3. There is no dispute between the main parties that this appeal scheme would meet the requirements of paragraphs O.1, including point b) relating to whether the building was used for a use falling within Class B1(a) (offices) on a set date. This was a main issue in two¹ of the previous three appeals² on this site. However, I understand the evidence and plans in those cases differed from that before me now. As such, I have no reason to disagree with the main parties' assessment of this matter.
4. Paragraph O.2 then requires the determination of whether prior approval is required for specified matters. The point in dispute here is point d) impacts of noise from commercial premises on the intended occupiers of the development.

Main Issue

5. The main issue is therefore the impact of noise from commercial premises on the intended occupiers of the development.

¹ APP/R3650/W/20/3258825, APP/R3650/W/20/3246067

² APP/R3650/W/19/3235306

Reasons

6. The appellant's Environmental Noise Survey and Assessment Report (24/06/2019) (Noise Report) identifies that on the eastern boundary, when the garage is operational, the "worse case" daytime sound level was calculated as being approximately 58dB L_{Aeq} . The letter from Clement Acoustics dated 23 January 2000 describes the average ambient measured day noise levels of 56dB $L_{Aeq:T}$ as a low noise risk for residential development. However, the values in the Noise Report are described in table 2 as being a significant observed adverse effect level, with a noticeable and disruptive perception. The Noise Report goes on to state that this would be at such a level that adverse impacts from noise from the garage operations could lead to complaints from future users of the development. This view is supported by the Council's professional advisor.
7. When I visited, the garage's large metal doors were closed and the activities inside were audible from outside the closest ground floor window. It is likely that when they are open the noise would be even clearer. I have no reason to think that the activities at the commercial premises are likely to change. Taking all the above into account, this would represent an unacceptable impact of noise from commercial premises on the intended occupiers of the development.
8. However, the noise report concludes that internal day time noise levels to avoid an adverse effect could be achieved if the windows on the building façade facing out to the garage remained closed whenever the garage is operational. A ventilation strategy would also be implemented.
9. The layout of this unit would mean that, during these times, the proposed dwelling would have only two openable windows serving a bedroom and study. The main living spaces of the living room and kitchen would need to keep windows closed. Even with mechanical ventilation, it is likely that occupants may wish to open windows in these main rooms during daytime hours, which would expose them to unacceptable levels of noise. Consequently, such a requirement is unreasonable for future occupiers, particularly given the arrangement of this unit.
10. Whilst it may be theoretically possible to achieve appropriate internal noise levels using the mitigation described above, in practice such a restriction would be unreasonable and as such could not be secured in perpetuity.
11. There is no suggestion that the windows to the northern elevation would need to be closed when the garage is operational, even though noise with impulsive characteristics may be audible. I have no reason to disagree with the Council's and the appellant's specialist advisors that the impact of noise in this respect would not be unacceptable.
12. It is put to me that the adjacent commercial property would now fall under a class E use where industrial processes which can be carried out in a residential area without detriment to its amenity are permitted. In this case the proposed windows would be directly adjacent to such a use, and I find that it is this proximity, rather than the use itself that results in the noise concerns outlined above. There is dispute between the appellant and the Council as to the extent of the industrial character of the surroundings and other properties within the estate are used for a variety of uses, including a gym and retail. However, this

does not have a direct bearing on my findings which are primarily concerned with noise from the garage to the adjoining windows.

13. The original permission for the Unicorn Industrial Estate set the hours of manufacturing work to 08:00-19:00 Monday-Friday and 08:00-13:00 Saturdays only. Although I understand there have been subsequent permissions which extend the hours of some units to a maximum of 08:00-21:00 Monday-Friday, 08:00-16:00 Saturdays and 10:00-16:00 Sundays and Bank Holidays, with shorter hours for the operation of machinery which is audible outside a site boundary. Nevertheless, these original hours would appear to apply to the garage use under consideration here.
14. There are residential uses nearby which existed prior to the approval of the Unicorn Industrial Estate, and properties which back on to a Tyre fitting garage and there have been no noise complaints from these properties. However, none of these dwellings are located with windows in such close proximity to a commercial use. Therefore, the noise effects of the proposed development on future occupiers of the appeal proposal would be different to those which currently exist.

Other Matters

15. My attention has been drawn to appeals on other sites where it is suggested that noise effects could be mitigated by keeping windows closed. Some of these have been allowed³ and some dismissed⁴. In all these cases the Inspector makes a finding based on the individual site and the specific characteristics of the noise involved. I have followed the same approach. However, as these are all in different locations, they do not alter my findings.
16. I am also directed to residential development approved by the council⁵ where external noise levels are higher than those in this case and mitigation by way of specific glazing along with alternative ventilation is suggested. This would be required to achieve acceptable internal noise levels with the windows closed. However, the mitigation is secured by condition and I am not provided with those details. Nevertheless, it appears that in these cases the applications were for full planning permission and the main noise was from road or rail with a greater separation from the source. Therefore, they are not directly comparable with the situation before me now.
17. Existing businesses should not have unreasonable restrictions placed upon them as a result of development permitted after they were established. I find that the suggested mitigation would be unlikely to be adhered to and as such would be ineffective. Therefore, the noise report finds that the adverse impacts from noise could lead to complaints from future users of the development. This detailed evidence from a professional, leads me to conclude that such restrictions would be likely.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

H Miles INSPECTOR

³ APP/C3810/W/19/3230687

⁴ APP/Q3820/W/18/3203568, APP/Q3820/W/18/3203570, APP/C3105/W/17/3167938, APP/Z0116/W/18/3193990

⁵ WA/2006/1041, WA/2017/0920