



Appeal Decision

Site visit made on 22 March 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 6 May 2022

Appeal Ref: APP/A0665/W/21/3286000

Land adjacent to 2 David Street, Northwich, CW8 1HE

- 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 Mr I Sedgwick against the decision of Cheshire West and Chester Council.
 - The application Ref 20/03690/FUL, dated 8 October 2020, was refused by notice dated 17 June 2021.
 - The development is described as 'Proposed change of use from a redundant B8 unit to a B2 commercial garage premises.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development applied for has been carried out. For the avoidance of doubt, I can confirm that my determination of this appeal has been made on the basis of the drawings submitted and the evidence before me.

Main Issues

3. The main issues are;
 - The effect of the development on the living conditions of the residents of neighbouring properties, with particular regard to noise and disturbance.
 - The effect of the development on highway safety.

Reasons

Living Conditions

4. The appeal relates to a roughly triangular shaped piece of land that is hard surfaced and contains a small red brick detached building that is operating as a commercial garage. Whilst there is a local Tesco Express Store and a free public car park nearby, the surrounding area is predominantly residential with the appeal site situated in proximity to 3 terrace rows of housing on Park Street, David Street and Chapel Street.
5. A noise impact assessment (NIA) was commissioned by the appellant in order to address concerns raised by the Council's Environmental Protection Team during the course of the planning application. The NIA found that the specific sound level of the garage has a rating level of 1dB below the background noise measurement from the nearest noise sensitive receptor at 2 David Street and

therefore has a low impact. If applying an averaged increase of 6dB, due to the noise survey taking place during the Covid-19 pandemic lockdown restrictions, the NIA also concluded that the noise from the site would be 7dB below the typical background sound level.

6. The appellant sets out that the Council's requirement for all new commercial development to not give rise to noise that exceeds 5dB below measured background levels is excessive and is not consistent with advice contained within BS 4142:2014+A1:2019¹ or the National Planning Policy Framework (the Framework).
7. There are no defined dB(A) thresholds for the Lowest Observed Adverse Effect Level in the Framework. However, I am aware that BS 4142:2014+A1:2019 states that a difference of around +5 dB is likely to be an indication of an adverse impact, and that a difference of around +10 dB or more is likely to be an indication of a significant adverse impact, depending on the circumstances. The appellant's justification for not including 'worse case' corrections in the NIA for impulsivity and intermittency based on the types of work likely to be undertaken at the premises are also noted.
8. Nonetheless, owing to the type of development, the likely sources of noise include activities such as engines revving; car doors being opened and closed; car horns, reversing beepers, the operation of various tools, plant and other service and repair related equipment. These are generally intermittent and impulsive. At such close proximity to the neighbouring properties these are likely to have the potential to give rise to a sudden, sharp difference in sound level. However, only vehicle movement, the use of the front gate and roller shutter door, ramp movement and talking in the yard have been included as noise sources in the NIA.
9. Furthermore, given that the development is in full time operation, 5½ days a week, it is unclear why the noise measurements and observations were only taken between the short duration of 10:00 to 12:45 hours on 1 weekday. The NIA sets out that there was no audible activity from within the garage building during this time, with the exception of ramp movement, when the roller shutters were closed. However, this document also states that the owner left the site between 10:30 to 11:30 hours and that garage noise therefore did not contribute to the noise climate during this period.
10. To my mind, this implies that the garage was only in operation between 10:00 to 10:30 hours and 11:30 to 12.45 hours when the noise measurements were taken. As a consequence of this very limited period of monitoring, I do not consider that a fully representative picture of the existing background noise or accurate noise levels of the development have been provided to quantify the noise impact. I therefore do not consider the appellant's NIA to be comprehensive or robust.
11. Whilst both main parties have made references to a NIA from a previous application on the site (Ref:19/01282/FUL) I have not been provided with the full details of this. As such I am unable to be certain of the differences in the operations of the developments and the methodologies of the 2 NIAs. This has therefore had little bearing on the outcome of this appeal as I have only had

¹ 'Methods for rating and assessing industrial and commercial sound'

regard to the planning merits of the scheme based on the evidence that is before me.

12. Taking all of the above into account, I am therefore unable to find that the development provides acceptable living conditions for the residents of neighbouring properties, with particular reference to noise and disturbance. As such it conflicts with Policy SOC 5 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (2015) (LP1) and Policies DM 2, DM 29 and DM 30 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (2019) (LP2). Collectively these seek, amongst other matters, for new development to safeguard residential amenity, by having regard to matters including noise.

Highway Safety

13. The Council considers that the development does not make safe provision for access to and from the site for all users, that it does not provide sufficient parking facilities to serve the needs of the development and that it fails to provide sufficient off-street provision for the parking of vehicles associated with the operation of the business.
14. Whilst I have had regard to the Council's satellite photograph of the site, no car parking standards or substantive evidence regarding traffic flows, accidents, or on-street car parking levels have been provided by either main party. At the time of my mid-day site visit I saw that the southern end of the Pleasant Street highway was lightly trafficked, with slow speeds due to the cul-de-sac arrangement and termination of this part of the highway at the appeal site. Whilst there was some on street parking nearby, I noted that there was sufficient space along Pleasant Street to accommodate additional cars. I also visited the nearby public car park, which is free to use and has a maximum stay of 14 hours within a consecutive 24 hour period. I saw that this had 5 spaces unoccupied at the time of my visit.
15. I appreciate that this is only a snapshot in time, and that this situation may change at busier peak times. Nonetheless in the absence of any substantive evidence put forward by both main parties, it gives an indication of the level of on-street car parking and available off street parking during this time of the day.
16. My site observations also confirmed that it is possible for private cars and most vans to enter and leave the site in first gear. However, in the absence of a swept path analysis to demonstrate the protracted manoeuvres of larger vehicles, such as a low loader, I am unable to be certain that they do not have to reverse in or out of the site. Nonetheless, the slow speeds and lightly trafficked nature of the immediate surroundings reduces the potential to interrupt the free flow of traffic or conflict with other vehicles in this area. Furthermore, vehicles of the largest size, which may not be able to turn in the site, are likely to be the least frequent visitors to the proposed development and thereby be an infrequent hazard.
17. Although there is a pedestrian link connecting Pleasant Street and Chapel Street/David Street directly in front of the appeal site it is uncontested by the main parties that the principle of a vehicular access at this location is well established. Pedestrians therefore expect and are aware of the presence of vehicles.

18. Furthermore, I am mindful of the lack of an in-principle objection from the Council's Highways Authority and note their suggested planning conditions, albeit subject to further consultation. One of these conditions is for the details of the turning areas and parking of cars and cycles, including the number, type and design of each parking facility to be submitted to the Local Planning Authority for its approval. Given my reasoning regarding the reversing manoeuvres of larger vehicles only being an infrequent hazard, I am satisfied that there is sufficient space within the site to allow for a suitably worded planning condition, similar to that suggested above to be imposed. This would ensure that an acceptable level of customer parking could be provided on site, which if required, would be able to remain overnight.
19. If an acceptable level of both staff and customer parking cannot be provided on site, I also consider that the small-scale nature of the development, including its limited number of employees and its daytime hours of operation are such that the staff parking requirements could be absorbed by the nearby public car park or on Pleasant Street.
20. Therefore, whilst I accept that there is a small and infrequent chance that manoeuvres carried out by larger vehicles carry some risk, I find that the risk is not so great as to cause material harm to highway safety or conflict with LP1 Policy STRAT 10 and LP2 Policy T 5. These require that the safety of all road users should be taken into account in the design and layout of new developments. This includes sufficient manoeuvring and standing space for the appropriate number and size of vehicles likely to serve the development at any one time.
21. In reaching my findings on this main issue I have also had regard to paragraph 111 of the Framework. This indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. For the reasons given above the proposal does not conflict with this advice.

Other Matters

22. The principle of development on this brownfield site and accessible location has been accepted by the Council. In addition, I am aware that the Council did not find the effect of the proposal on ecology, trees and hedgerows, flooding and foul and surface water drainage to be objectionable. They have also not raised any concerns in respect of the living conditions of the residents of neighbouring properties in terms of outlook and privacy. However, the absence of harm in these respects are neutral factors which do not weigh in favour of the development.
23. I have also had regard to the letters of support from some local residents which state that the development has improved the overgrown and unsightly appearance of the site. Nonetheless, this factor in itself does not overcome or outweigh the harm that I have identified above.

Conclusion

24. Despite my findings on highway safety, I consider the harm in respect of noise and disturbance and the living conditions of neighbouring residents to be an overriding concern.

25. For the reasons given above, there are no material considerations that warrant taking a decision otherwise than in accordance with the development plan when taken as a whole. Therefore, the appeal should be dismissed.

Mark Caine

INSPECTOR