



Appeal Decision

Site visit made on 2 November 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2022

Appeal Ref: APP/R1010/W/22/3299172

Mario's Motors, Unit 1 Sookholme Road, Shirebrook, Mansfield, Nottinghamshire NG20 8SG

- 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 Barry Lyons of Mario's Motors against the decision of Bolsover District Council.
 - The application Ref 21/00592/FUL, dated 29 September 2021, was refused by notice dated 29 November 2021.
 - The development proposed is change of use from storage space above reception office into a bedsit room for the sole use of the owner/not for rental.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted additional information regarding potential mitigation measures as part of the appeal. While this information was not submitted to the Council during the application process, they have provided comments in their statement. I have therefore taken this information into account when reaching my decision.
3. The appeal proposal includes external alterations although these are not specifically referred to in the description of development. The Council did not raise any concerns regarding these alterations which they characterised as 'not significant'. I have no reason to disagree with this.

Main Issue

4. The main issue is whether there would be acceptable living conditions for future occupiers of the bedsit, with regard to noise and disturbance.

Reasons

5. The appeal proposal would utilise a small mezzanine floor within an existing industrial unit used for vehicle maintenance. The surrounding properties are in employment uses and there is a wooded public open space adjacent to the site. While not particularly noisy at the time of my site visit, this only represented a short snapshot in time and it is likely that there would be noise arising from the surrounding uses which included a car salvage business. The Council's report confirms that there are no additional restrictions on these units in terms of use and hours of operation. It is reasonable to assume that over time there will be changes to how the surrounding employment units are used, such as in terms of intensity of use and hours of operation.

6. The surrounding employment uses would therefore have the potential to cause at least a moderate level of noise nuisance to the occupier of the appeal dwelling. In these circumstances the effects and likely impacts of existing sources of noise and disturbance on the development proposed must be clearly understood, including those active that businesses are permitted to carry out, even if they are not occurring at the present time. Possible mitigation measures must be considered in this context. More specifically, paragraph 187 of the National Planning Policy Framework (the Framework) requires that suitable mitigation be provided before any development is completed to ensure that unreasonable restrictions are not placed on the existing uses as a consequence of the development under consideration.
7. The appellant has submitted details of acoustic glazing and mechanical ventilation which could be used to reduce noise within the appeal site. However, this information relates to the technical specifications of the measures. It has not been demonstrated that they would be suitable and/or effective for this specific development.
8. The appellant has also offered to carry out a noise assessment. The Council has indicated that this could be secured by condition were I to allow the appeal. However I must determine the appeal on the basis of the information before me. The outcome of any such assessment is unknown, as is the extent of any mitigation that it may recommend, assuming that mitigation would indeed be possible. The Planning Practice Guidance (PPG) advises that conditions that impact on the proper implementation of the planning permission should not be used. In these circumstances, it is considered that such a condition would not be reasonable, nor would it be precise and therefore would fail to meet the tests contained in paragraph 56 of the Framework.
9. The bedsit would only be occupied by the owner of the property who controls both the unit in which the bedsit would be located and the attached unit. This would allow some control over the effect of those units on the appeal proposal. However, I am mindful of the advice contained in the PPG that in general planning is concerned with land use in the public interest. Even if I found it was reasonable to control the occupancy of the bedsit and the uses of those units, this would not address the potential for harmful effects from noise and disturbance from the surrounding commercial units. Nor would it necessarily ensure that there would not be effects on the operation of those surrounding units arising from the introduction of residential use.
10. There are residential properties in the vicinity of the site, most notably The Meadows which sits further along Sookholme Road in close proximity to employment uses. It is not in dispute that The Meadows has been in occupation for a considerable period of time and prior to the development of the surrounding employment uses. However, the presence of a dwelling does not in and of itself justify the presence of another, nor does it affect how the requirements of paragraph 187 of the Framework should be applied.
11. The Market Close application was supported by site specific assessments and mitigation measures to demonstrate the acceptability of that development. Furthermore, this development is positioned adjacent to the retail store and industrial estate, rather than within the industrial estate, and so there are circumstantial differences between this and the case before me.

12. The appellant has drawn my attention to other residential developments where the relationship with neighbouring employment uses was a factor and mitigations for noise and pollution were achieved. I do not have full details of these proposals before me. Furthermore, they were in other local authority areas where different development plans are in force. These permissions would not justify allowing this appeal.
13. In relation to this main issue, I find that the development would not provide acceptable living conditions for future occupiers with regard to noise and disturbance. It would therefore be contrary to the Local Plan for Bolsover District adopted March 2020 (Local Plan) Policies SC3 and SC11 which require development to demonstrate and ensure there would be a good standard of amenity for occupants. It would also be contrary to the advice in paragraph 187 of the Framework to ensure that new development can be integrated effectively with existing businesses.

Other Matters

14. Local Plan Policy SC3 does provide support for mixed use development in principle but this is qualified by the other considerations, including ensuring a good standard of amenity for future occupants of new development. I acknowledge that the unit and its surrounds were well maintained at the time of my site visit and that the proposal would result in fewer emissions as the occupier's need to travel would be reduced. There is no dispute that there have been ongoing economic benefits as a result of the appellant's business.
15. The Council can demonstrate a five year supply of housing land. Regardless, there would be a benefit from the provision of an additional dwelling although this would be limited given the small scale of the development and the inherent occupancy restriction.
16. The appeal proposal identifies an area of land which would provide amenity space for the bedsit. This would be in proximity to the customer parking area and no information has been provided as to whether this would be enclosed. However as the appellant has highlighted, it is not uncommon for flats to have limited or no amenity space. There also would be the opportunity for any occupier to use the public open space accessed at the junction of Sookholme Road and Portland Drive for recreation. I therefore consider this to be neutral in the determination of the appeal.
17. No concerns have been raised with regard to access to the site or the effect on the operation or safety of the surrounding highway network. I saw nothing at my site visit that would lead me to a different conclusion.
18. The appellant has cited Local Plan policy SC5 as supporting their case. However that policy relates to changes of use and conversions in the countryside and so is not relevant to this appeal which is within an urban area.
19. No substantive evidence been placed before me to demonstrate that the comments of the Environmental Health officer are not robust.

Conclusion

20. For the reasons given above, the appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to indicate that a decision should be taken other than in accordance with the development plan. Therefore, the appeal is dismissed.

J Downs

INSPECTOR