



Appeal Decision

Site visit made on 23 November 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/U4610/W/22/3301195

30 and land at the south end of Regent Street, Coventry CV1 3EP

- 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 Regent Street Partnership against the decision of Coventry City Council.
 - The application Ref FUL/2021/2844, dated 14 September 2021, was refused by notice dated 15 December 2021.
 - The development proposed is erection of student accommodation (sui generis use class-234 studio rooms including change of use of and alterations to no.30) with associated ancillary and management facilities, landscaped and access courtyards and roof terraces.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site contains a warehouse building that adjoins and shares a party wall with the recording studios known as the Black Rose Studios (the Studio). The proposal determined by the Council included the demolition of that warehouse and the party wall. Comments submitted during the determination of the application by the owners of the Studio were also made on the understanding that those elements would be demolished. In their final comments at appeal, the appellant submits that the party wall should be retained. A new elevation drawing submitted with those comments shows the existing and proposed elevation of the party wall (Ref PL_21_300).
3. The modified proposal with respect to the party wall is said to be agreed with the Studio landowner. However, on the evidence before me, I cannot be sufficiently certain that the landowner of the Studio has had adequate opportunity to comment on the proposed amendments to the party wall. Furthermore, the appeal process should not be used to evolve a scheme¹. Therefore, in the interests of fairness to all parties, I have assessed the appeal on the basis of the proposal that was considered by the local planning authority, in which the warehouse and party wall were proposed to be demolished.

¹ Procedural Guide - Planning appeals – England (February 2022): Paragraph M.2.1

Main Issues

4. The main issues are:

- whether it has been demonstrated that the proposed development would create acceptable living conditions for future occupants of the appeal scheme, with regard to noise from the Studio;
- the effect of the proposed development on the living conditions of nearby residents, with particular regard to noise and disturbance and parking stress; and
- the effect of the proposed development on the living conditions of the occupants of 28 Regent Street, with particular regard to outlook.

Reasons

Living conditions for future occupants of the appeal scheme

5. The Council is concerned that insufficient evidence has been provided to demonstrate that the proposal would achieve acceptable living conditions for future occupants of the student accommodation closest to the Studio. The appellant's Noise Assessment (by Dynamic Response, dated December 2021) (the Noise Assessment) confirms that noise monitoring was undertaken in two locations close to the Studio. Based on the recorded levels, the Noise Assessment finds that noise within the proposed accommodation closest to the Studio would likely meet the BS8233: 2014 guideline levels.
6. However, the Noise Assessment goes on to state that noise levels may be higher than indicated. This is because the existing warehouse building is to be demolished, along with the party wall, resulting in more of the Studio wall being exposed to open air. Therefore the Noise Assessment recommends a further noise survey once the proposed demolition has taken place. It appears very likely that in such circumstances, noise levels would be greater than under existing conditions. However, the scale of any such increase is unclear. Consequently, there is a high degree of uncertainty over the extent of noise mitigation that might be necessary to achieve acceptable noise levels within the adjacent student accommodation.
7. Similarly, there is uncertainty over whether any such mitigation would be practical, feasible or desirable in the particular circumstances of this case. Given the proximity of the Studio to the proposed bedrooms, resolving this matter could have potentially significant implications on the scheme design in that part of the site. As such, it would not be appropriate to rely on its resolution by a condition. Although the appellant submits that the party wall should be retained, for the reasons given in Preliminary Matters above, I do not consider this further here. Whilst this matter was not referenced in the Council's reason for refusal on the previous student accommodation proposal for this site, on the evidence before me it is a relevant consideration.
8. Accordingly, I conclude that it has not been demonstrated that the proposal would achieve acceptable living conditions for future occupants of the appeal scheme, with regard to noise from the Studio. Therefore, I cannot be satisfied that the proposal would comply with Policy DE1 of Coventry Local Plan (2017) (Local Plan). Amongst other matters, this seeks to ensure developments achieve high quality design, with regard to function and impact, for the lifetime

of the development. Similarly, I cannot find compliance with paragraph 185 of the National Planning Policy Framework (Framework) which seeks to ensure developments avoid noise giving rise to significant adverse impacts on health and quality of life. In reaching this conclusion I have also had regard to paragraph 174 of the Framework which requires that decisions should prevent new development being put at unacceptable risk from unacceptable levels of noise pollution.

Living conditions of nearby residents: noise and disturbance and parking stress

9. Access to the proposal would be from the end of Regent Street which is a predominantly residential road. The Council is concerned that the proposal would result in increased comings and goings at anti-social hours of the day, resulting in noise and disturbance to existing residents in the vicinity. This could arise from students leaving and returning home late at night on foot. The Council has also raised concerns regarding disturbance to existing residents from vehicular comings and goings at antisocial hours. This could include taxis, supermarket delivery vehicles operating until 2300 and other late night food deliveries.
10. A student management plan is proposed as a mechanism to help minimise the impacts of future occupants of the appeal scheme on existing residents in the locality. This is proposed to include 24 hour management of the site by a combination of a day-time property manager and an out of hours on-site security officer. Details of such a management plan and its implementation might reasonably be secured by planning condition. Such measures, including CCTV coverage of the Regent Street approach, would enable student behaviour to be monitored and followed up after the event. However, it would not necessarily be a preventative measure. Consequently, some late night noise and disturbance of local residents would be reasonably likely to occur from activity outside the appeal site.
11. Although a turning head is proposed within the site, it would be relatively constrained in size. As such, in the event of several vehicles arriving at a similar time, I find it is likely that some would resort to turning around in Regent Street. Even accepting that a proportion of taxis in the city are quieter electric vehicles, this would not remove the potential for disturbance from car music, voices, horns and car doors slamming, from taxis and delivery vehicles. Given the proximity of houses to the road edge along Regent Street, this would be particularly intrusive during warmer weather when residential windows are likely to be open.
12. The appellant has submitted results of a traffic movement survey for a student accommodation scheme at 33 Parkside. During that survey, undertaken overnight on a weekday in early June 2022, an average of six two way vehicle trips occurred per hour between 2300 and 0700. The maximum recorded was 13 two way trips at around 2300. However, given the site constraints at the appeal site and proximity to neighbouring houses, even a relatively modest number of vehicle trips regularly occurring in the late evening could be highly disruptive for neighbouring residents. In addition, it is unclear whether that survey is representative of a typical night at that accommodation. For example, whilst some nights may be quieter, it appears reasonably likely that there would be potential for a greater frequency of late night vehicle movements

from social events at the start of the academic year, as well as at other times of celebration.

13. Whilst student accommodation is present in the locality, access arrangements for those buildings do not appear so constrained and in such close proximity to existing houses as is proposed here. No robust evidence is before me to suggest otherwise. Even noting the proximity of the appeal site to nightclubs and bars in the city centre, taxis are reasonably likely to remain a popular choice for student trips to and from the proposed accommodation, particularly late at night.
14. The proposal is predicted to result in a reduction in the total number of daily vehicular movements to and from the site in comparison to the existing commercial use. Nevertheless, it appears likely that the proposal would lead to an increase in evening and night-time comings and goings, when residents would reasonably expect quieter times and would therefore be more sensitive to noise disturbance. Also, in the absence of the appeal scheme, it does not appear likely that the site would return to a former use involving a much greater number of heavy goods vehicles travelling to and from the site. No substantive evidence indicates otherwise.
15. The scale of the proposal has been reduced from the previous appeal scheme. However, in the context of a proposal of this scale, such a modest reduction of 20 bedrooms is unlikely to result in a meaningful reduction in noise and disturbance associated with evening and night time comings and goings.
16. With respect to the proposed roof terrace, the appellant has sought to address concerns relating to student voices and music causing unacceptable noise disturbance to existing nearby residents. A 1.5m balustrade is proposed to provide noise attenuation. The Noise Assessment recommends further noise management measures to be implemented in order to avoid use of the terrace unacceptably harming nearby residents with respect to noise disturbance. Such measures include restricting the hours during which the roof terrace could be accessed, preventing access during the night time. In addition, it suggests a limit on the number of students permitted to use the terrace at any one time. It is proposed that security staff would be able to ensure these restrictions are implemented.
17. I consider that such measures would be necessary to effectively control noise and disturbance from the roof terrace, in addition to noise attenuation by the proposed balustrade. However, to be effective this would likely require a high degree of surveillance and monitoring of use of the roof terrace. Notwithstanding the proposed 24 hour security presence, evidence that such measures could reliably be enforced for the lifetime of the development is not sufficiently persuasive. Furthermore, even if use of the roof terrace could reliably be restricted to certain daytime hours, there would remain the potential for its daytime use to cause unacceptable noise and disturbance to nearby residents that may be at home during the day.
18. Nevertheless, in the event the appeal were to be allowed, a condition could reasonably be imposed to exclude implementation of the roof terrace from the approved drawings. The appellant has suggested that they would accept such a change. This would avoid this element of the proposal from causing unacceptable harm to the living conditions of nearby residents, from noise and disturbance.

19. With respect to pressure for on-street parking, the proposed development does not include parking for students. It is proposed that the student management plan would include a requirement that students do not have daily access to a car, or own a car in Coventry, for the duration of their time residing at the proposed development. The appellant submits that students tend to accept and abide by such requirements and I see no reason to find otherwise here. Furthermore, whilst only a snap-shot in time, evidence of a particular on-street parking shortage was not evident at the time of my mid-morning, weekday site visit. I note also that the Council's highways department did not object on grounds of insufficient parking.
20. Concluding on this main issue, noise and disturbance from the proposed roof terrace could be resolved as described. In addition, I am satisfied that in the circumstances of this case, the proposed development and the absence of on-site parking, would not cause unacceptable harm to nearby residents as a result of parking stress arising from increased time trying to find a suitable parking space. However, the proposal would unacceptably harm the living conditions of nearby residents as a result of noise and disturbance from comings and goings from the proposed site access on Regent Street.
21. Accordingly, the proposal would conflict with Policy H10 of the Local Plan, which supports student accommodation proposals where it would not unacceptably harm the living conditions of nearby occupants. It would also conflict with Policy DE1 of the Local Plan which seeks to ensure proposals achieve high quality design including in respect of their impact over the lifetime of the development. Policy AC3 of the Local Plan addresses matters such as transport assessments, travel plans and car parking standards. Given the accessibility of the site by non-car modes I find no conflict with this policy in respect of this main issue. The proposal would conflict with paragraph 130 of the Framework which, amongst other matters, seeks to ensure proposals achieve a high standard of amenity for existing and future users.

Living conditions of the occupants of 28 Regent Street: outlook

22. The rear garden of No 28 would be bordered to one side by the proposed development extending along most of its garden length. The proposed roof line of that building is now proposed to be raked back rather than the proposed flat roof that was considered in the previous appeal on this site (Ref APP/U4610/W/21/3282721). This would soften the appearance of that elevation from No 28 and its garden such that it would not appear unduly dominant or visually intrusive.
23. At the rear of the garden at No 28, the proposed development would appear as a 2.5 storey building. The roof line of this element of the building would also be raked back. To the south, the building line steps up, away from No 28. This would appear as a natural progression in height rather than there being a sudden, stark increase. Comparative sections² have been submitted to demonstrate how the current proposal has been altered from the scheme considered in the previous appeal. Whilst the proposed building would be clearly visible, given its relatively urban context it would not be unduly dominant or excessively tall in views from No 28 and its garden.

² Drawing Ref: Sections AA – Comparison PL_45_103

24. Accordingly, the proposed development would not unacceptably harm the living conditions of the occupants of No 28 with respect to outlook. As such, with respect to this main issue, it would accord with Policies H10 and DE1 of the Local Plan. Nevertheless, for the reasons given above, the proposed development would conflict with these policies when considered as a whole.

Other Matters

25. The appellant has submitted a signed and dated Unilateral Undertaking. This would provide a financial contribution towards cycle route improvements. However, the appeal is being dismissed for other substantive reasons and a conclusion on the obligation either way would not affect my overall conclusion. Therefore, I do not consider the obligation further.

Planning Balance

26. The proposal would not result in harm to the character and appearance of the surrounding area. It would not harm the living conditions of the occupants of No 28 with respect to outlook. Also, it would not unacceptably harm the living conditions of neighbouring occupants with respect to parking stress. In addition, removal of the roof terrace would avoid harm to the living conditions of nearby residents with respect to noise from that element of the proposal. These are neutral considerations.
27. The proposal would make use of previously developed land on an accessible site, for which there is support in the Local Plan and the Framework. It would increase the supply of student accommodation in the city. There would also be modest economic benefits from the construction phase and subsequent use of local shops and services by residents of the development and staff.
28. However, it has not been robustly demonstrated that the proposal would achieve acceptable living conditions for its future occupants adjacent to the Studio, with regard to noise. Furthermore, I have found that the proposal would lead to demonstrable harm to the living conditions of neighbouring occupants through noise and disturbance from comings and goings at antisocial hours of the day. These matters attract significant weight and outweigh the benefits associated with the proposed development.
29. The proposal would therefore conflict with the development plan, and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

30. Therefore, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR