



Appeal Decision

Site visit made on 11 January 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2023

Appeal Ref: APP/X3540/W/22/3292262

Hill House, Mill Lane, Hasketon IP13 6HQ

- 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 Aaron Mayhew against the decision of East Suffolk Council.
 - The application Ref DC/21/4887/FUL, dated 26 October 2021, was refused by notice dated 13 December 2021.
 - The development proposed is described as 'change of use from domestic garages / workshops to vehicle bodywork workshop / spray shop'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal form indicates the appeal has been submitted by Mr Aaron Mayhew only. The appeal therefore proceeds on this basis, and I have used the details from the appeal form in the banner heading above.

Main Issue

3. The main issue is the effect of the proposed vehicle bodywork workshop / spray shop on the living conditions of surrounding occupiers and occupiers of the host property, with particular reference to noise, disturbance and odour.

Reasons

4. The appeal proposal relates to two buildings located in the rear garden of Hill House. I also noted the siting of what appeared to be a storage container between the buildings. They occupy an elevated position relative to the host property, and the neighbouring residential properties on Prospect Place and Prospect House.
5. The appellant advises that the bulk of the work undertaken relates to small, specialised bodywork repairs. Irrespective of the use class in which the appeal proposal would fall, the proposed use would involve machinery and includes activities that inevitably create noise, disturbance and odour. The evidence before me contains only generic information with regard to the noise output of the spray booth and compressor. There is no evidence before me as to noise that would be generated by the tools using the compressor, the noise characteristics of the proposed equipment, the level of noise insulation that would be provided by the buildings or the noise and effectiveness of any extraction equipment in dispersing odour.

6. In a residential area, there is a reasonable expectation of low levels of background noise when using the garden. While the appellant has highlighted the proximity of the Vehicle Surgeon to the surrounding residential properties, at the time of my site visit there was no discernible background noise arising from it. I cannot be certain that is always the case, given that my site visit only represents a short snapshot in time, however there is no evidence before me of any assessment of the existing background noise level.
7. I therefore cannot be certain that the proposed development would not give rise to adverse effects on the living conditions of neighbouring occupiers due to the proximity of the site to those properties and their private amenity spaces.
8. The appellant has suggested these issues could be controlled by conditions requiring an acoustic survey, workshop doors to be closed and approval of details of extraction equipment. However, I must determine this appeal on the basis of the information before me. The outcome of any acoustic assessment is unknown and may have to incorporate as yet unspecified extraction equipment. The extent of any mitigation it may recommend, assuming that mitigation would indeed be possible, is not known. It is not clear that ensuring the workshop doors would be closed would be enforceable. In practical terms, whilst it would be possible to detect a contravention through residents' complaints, given the varying ground levels between the appeal site and those properties, I am not persuaded that this would be a reasonable approach.
9. The Planning Practice Guidance (PPG) advises that conditions that impact on the proper implementation of the planning permission should not be used. In the circumstances I have identified above, it is considered that the proposed conditions would not be reasonable or precise and therefore would fail to meet the tests contained within paragraph 56 of the National Planning Policy Framework (the Framework).
10. Furthermore, access to the site would be taken from the existing access which serves the host property. This passes in proximity to a number of windows serving the dwelling. While hours of operation could be controlled by condition, it would not be reasonable, in light of the advice and guidance contained within the Framework and the PPG, to control the number of vehicle movements to that identified by the appellant as this could affect the viable operation of the business. The use of this access could give rise to levels of noise and disturbance that would have an adverse effect on the living conditions of occupiers of the host property.
11. I therefore conclude that the appeal proposal would have an unacceptable effect on the living conditions of surrounding occupiers and occupiers of the host property, with particular reference to noise, disturbance and odour. The proposal would therefore be contrary to Suffolk Coastal Local Plan (LP) Policy SCLP11.2 which requires development to not cause an unacceptable loss of amenity for existing or future occupiers of development in the vicinity, including with regard to air quality and other forms of pollution.
12. While the Council has referred to LP Policy SCLP4.5, this policy does not address the adverse effects of economic development on surrounding residential properties and as such is not directly relevant to this reason for refusal.

Other Matters

13. Paragraph 38 of the Framework states that local planning authorities should work with applicants to secure development that will improve the economic, social and environmental conditions of the area and paragraph 11 requires development that is in accordance with an up-to-date development plan to be approved. There is no onus on the Council to facilitate development which would not be in accordance with the development plan.
14. LP Policy SCLP4.5 seeks to support rural businesses. There would be an economic benefit from supporting the continued operation of an existing business in a location that would be convenient for its customers. However, this would not outweigh the harm I have identified above.
15. There is no evidence before me that the way in which the buildings have previously been used by the occupiers gave rise to any adverse effects on the living conditions of neighbouring residents. This therefore does not provide compelling evidence in support of allowing the appeal.
16. Concerns about the future maintenance and use of the building would not justify allowing the development against the harm I have identified above. Any other proposed use which would require planning permission would be considered on its own merits at the time of any such application.

Conclusion

17. The development conflicts with the development plan taken as a whole and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

J Downs

INSPECTOR