
Appeal Decision

Site visit made on 8 December 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/U4610/W/22/3300305

Argyle House, Collingwood Road, Coventry CV5 6HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr J Agarwall of The Chesterfield Partnership against Coventry City Council.
 - The application Ref FUL/2021/3316, is dated 2 November 2021.
 - The development proposed is demolition of existing offices and warehouse buildings and the erection of Purpose Built Student Accommodation (PBSA) between two and four storey building and associated works.
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Decision

1. The appeal is dismissed, and planning permission refused.

Application for Costs

2. An application for costs was made by Mr J Agarwall of The Chesterfield Partnership against Coventry City Council This application is the subject of a separate decision.

Procedural Matters

3. The description of development changed from that stated on the application forms because of amendments during the application process. This is reflected in the banner heading of my decision.
4. The Council failed to give notice of their decision within the prescribed period. However, the Council has indicated under the appeal that they would have refused planning permission, and this has helped inform the main issues.
5. The appellant submitted new evidence with their final comments. Accepting new evidence to amend the proposal at this stage of proceedings would prejudice the Council and other interested parties. Consequently, it cannot be accepted.

Main Issue

6. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers.

Reasons

7. Argyle House sits between Hawkins Road and Collingwood Road, which are characterised by terraced dwellings. The close physical relationship between the site and the existing dwellings is clearly apparent.
8. Given the site's lawful use is for employment¹, including general industrial and storage and distribution activities, there is potential that neighbouring occupiers could experience a degree of noise and disturbance over and above what might be considered typical of a residential area.
9. Indeed, there is no evidence that the site's lawful use for employment is limited or restricted in any way. Consequently, there is also potential for intrusive levels of unmitigated noise and disturbance from late night operations.
10. However, these are largely theoretical scenarios. From the submitted evidence, it appears that a marketing exercise has demonstrated the site is not suitable for a wide range of businesses and there is a clear lack of demand.
11. This is due to undesirable characteristics of the building, among other things. Therefore, it is highly unlikely that the site would enjoy full scale occupation now or into the future. It is more likely that it would be largely vacant moving forward.
12. Even if it could sustain a degree of occupation, it is reasonable to presume that the sub optimal nature of the site would constrain operations.
13. Consequently, the likelihood of intrusive levels of unmitigated noise and disturbance from general industrial or storage and distribution activities, whether in the day time or the night time, would be low.
14. An existing carpet business does occupy part of the site at present. However, it is a small scale and temporary operation with limited impact on neighbouring dwellings.
15. For example, I note the traffic count data and that the number of heavy goods vehicle movements are limited, and unlikely to create significantly elevated levels of noise and disturbance.
16. The movements of light goods vehicles are higher in number, but movements are more tolerable compared to heavy goods vehicles. Indeed, light goods vehicles are common place in relation to home delivery services and tolerated as part of day to day living within residential areas.
17. Furthermore, there is no evidence of other onsite operations from the existing carpet business that would generate elevated levels of noise and disturbance. Indeed, I am not aware of any pre-existing formal complaints from neighbouring occupiers.
18. The temporary nature of the existing carpet business operation is also indicative of the sub optimal nature of the site and reinforces my previous assessment about the likelihood of full scale occupation.

¹ Noting the parties' confirmation that the use has not been abandoned.

19. Altogether, there is limited risk of intrusive levels of unmitigated noise and disturbance at the site. For all intents and purposes, this means that the site should not be thought of as creating elevated baseline conditions for noise and disturbance over and above the predominant residential context.
20. Policy H10 of the Coventry City Council Local Plan 2017 is clear that purpose-built student accommodation will be encouraged where it will not materially harm the amenities of occupiers of nearby properties.
21. The proposal would deliver a very significant number of units at the site, to the extent that the density of the proposal would be incomparable with the immediate residential context.
22. Consequently, the concentration of movements to and from the site² would be very significant and generate levels of activity that would be out of keeping with the character of the area.
23. Moreover, whilst the wider perimeter block of terraced dwellings has multiple points of access, the comings and goings from the site itself would be further concentrated at the corner of Hawkins Road and Collingwood Road.
24. This would amplify the concentration of movements and high levels of activity derived from the increased density. This would undoubtedly result in noise and disturbance incompatible with the existing residential context.
25. There may be more tolerance for noise and disturbance during the day time, and the effects might be mitigated somewhat by staggered comings and goings due to different course enrolments and other management measures.
26. However, it is highly likely that the sheer concentration of movements associated with the proposal would still generate an appreciable degree of residual noise and disturbance that would be harmful even during the day time.
27. Furthermore, the very nature of student life dictates that there would be an appreciable element of late night activity, including comings and goings by foot and by taxi, among other things.
28. The lower tolerance for noise and disturbance late at night would make it far more difficult to manage. Consequently, even with strict management plans and other measures in place, there is also likely to be a harmful level of noise and disturbance during the night.
29. Altogether, the combination of high density accommodation and activity concentrated around a single point of access would give rise to a level of noise and disturbance incongruous with the existing residential context both during the day time and the night time. As such, the proposal would severely diminish the living conditions of neighbouring occupiers.
30. It is important to recognise that the Council's case is mostly predicated on the impact of the proposal during the more anti-social hours of the night time. However, it is clear that other interested parties have more general concerns. Consequently, my assessment has been based on the impacts of noise and disturbance during the day time and the night time.

² Irrespective of the transport mode, including movements of primary tenants and associated visitors to the premises

31. Whilst I note that the proposal is put forward under a car free scheme, it is not clear that the appropriate mechanisms are in place to secure it. For example, the site is not within a controlled parking zone within which car free schemes would traditionally operate, something the appellant alludes to in their final comments.
32. There is limited information on whether tenancy agreements would be an appropriate alternative control mechanism. Furthermore, it is not clear whether a planning condition is an appropriate mechanism in lieu of a legally binding planning obligation.
33. Even accepting a car free scheme could be appropriately secured in this case³, the level of noise and disturbance derived from the concentration of other activities and movements not related to car ownership would still harm the living conditions of neighbouring occupiers.
34. Overall, the proposal would harm the living conditions of neighbouring occupiers and conflict with Policies DE1 and H10 of the Coventry Local Plan 2017, which among other things require all development proposals to respect and enhance their surroundings and encourage student accommodation where it will not materially harm the amenities of occupiers of nearby properties.

Other Matters

35. An executed Section 106 Agreement with planning obligations to mitigate the impacts of the proposal on infrastructure has not been submitted. However, the planning obligations sought would be mitigation and neutral in the planning balance, rather than providing a benefit to be weighed in the planning balance. Given my findings on the main issue, it is not necessary to consider whether such planning obligations are necessary to make the development acceptable.
36. The other application⁴ for student accommodation cited by the appellant is not comparable to the proposal in this case. Among other things, it is located on a main thoroughfare with higher levels of activity, rather than a more secluded residential area. Consequently, I have given it limited weight in my decision.
37. I note the Council's contentions in relation to disabled, service and delivery vehicle parking. However, these matters are limited and not fundamental to the level of activity generated by the proposal or therefore integral to the assessment of the main issue. Consequently, I have not found it necessary to probe these matters further.
38. I acknowledge that the application may have been originally recommended for approval by officers at committee without objection from statutory consultees. However, there is no evidence that the Council were bound by this initial recommendation, or that officers were not entitled to change it in light of further consultation. Consequently, I have given these aspects of the appellant's case limited weight in my decision.
39. The appellant's reference to Paragraph 111 of the National Planning Policy Framework is noted. However, highway safety is not the main issue in dispute and has not been determinative in deciding the appeal.

³ And notwithstanding the variance in parking standards cited by the parties relating to PBSA versus HMO

⁴ FUL/2021/0953

40. Differences in the level of objections are recognised. However, whilst objections or indeed support may guide an assessment of potential impacts, representations on their own are not indicative of a proposal's acceptability. I have considered the proposal on the basis of the main contentious issues, deciding the appeal in accordance with the development plan and other material considerations.

Conclusion

41. For the reasons given, the appeal is dismissed, and planning permission refused.

Liam Page

INSPECTOR