



Appeal Decision

Site visit made on 6 January 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/X0360/W/22/3290427

Land rear of 182 Hyde End Road, Spencers Wood RG7 1DG

- 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 John Burke (JGB Construction Ltd) against the decision of Wokingham Borough Council.
 - The application Ref 212507, dated 21 July 2021, was refused by notice dated 5 October 2021.
 - The development proposed is change of use of land for outside storage together with the erection of acoustic fencing and landscaping in association with an existing business.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by JGB Construction Ltd against Wokingham Borough Council. It is the subject of a separate Decision.

Preliminary Matters

3. With the appeal the appellant submitted an amended proposed block plan¹ and an amended site management plan². The former shows which part of the appeal site would form the outside storage area, a re-positioned acoustic fence and areas of planting. The latter confirms that it would be used to store groundwork, not formwork, equipment and plant. I have determined the appeal on the basis of these amended details and in so doing I am satisfied that no prejudice has been caused to any party.

Main Issues

4. The main issues are:
 - the effect of the proposal on the living conditions of the occupiers of Nos.6 and 8 Packer Close, Croft Grove and Nos.178 and 180 Hyde End Road, having regard to noise; and
 - its effect on the character and appearance of the area.

Reasons

5. The existing business, JGB Construction Ltd, uses a yard to the rear of No.182 Hyde End Road to store groundwork and formwork equipment and plant for use

¹ Drawing no.182-102 Rev P4

² Letter dated 5 January 2022

at construction sites. It has been referred to as a 'builders yard' but only a majority part of it has a lawful use for 'storage of formwork'³. There is an office attached to No.182 and the yard is accessed by a drive next to this house. At my site visit the yard was not in active operation. Albeit a snapshot, a large quantity and variety of static and mobile equipment and plant was neatly stored or stacked in it, generally not overly high. A van and two lorries were parked in the yard, one loaded with a tracked excavator.

6. The appeal site latterly contained mature vegetation but it has been largely cleared back to bare earth. Some items of equipment or plant had strayed onto parts of it. The outside storage area would be a hardstanding covering most of the appeal site, bordering the yard on its open west side and next to two storage buildings on the north side, with landscaped margins and acoustic fences along its south and east sides.

Living conditions

7. Once stored in the outside storage area groundwork equipment or plant would not generate intrinsic noise disturbance. These items could remain in situ for days, weeks or months or be at construction sites for similar durations. Nonetheless, they would need to be transported to and from the appeal site using vans or lorries. A condition could ensure that these vehicles did not enter the storage area to be loaded/unloaded and to limit the hours that groundwork equipment and plant could be retrieved from and returned to storage.
8. However, forklifts and mobile groundwork plant, such as tracked excavators, would need to be operated on the appeal site and vans, lorries, forklifts and mobile groundwork plant would need to be operated in the yard. When it did occur on the appeal site and in the yard this use and activity has the potential to cause noise disturbance to the closest residential receptors. These are the houses at Nos.6 and 8 Packer Close to the west, Croft Grove to the north (also referred to as Croft House) and Nos.178 and 180 Hyde End Road to the south.
9. While vans, lorries and forklifts already operate in the yard, there is no evidence that any part of the yard has a lawful use or planning permission for storage of groundwork equipment or plant and related loading/unloading and transport activity. Nor has it been suggested that this does not require planning permission. There is also no categorical evidence that storage of groundwork equipment or plant and related loading/unloading and transport activity in the yard was taken into account when the Council granted planning permission for Nos.6 and 8 Packer Close or Grove Croft. On this basis, there would therefore also be new use and activity in the yard.
10. Amongst other things, the appellant's environmental noise report (ENR) assessed continuous sound generated by the existing business in active operation in the yard. This was measured from the appeal site, which is closer to Nos.178 and 180 Hyde End Road than the yard. There is no evidence that continuous sound was measured in the yard, which is significantly closer to Nos.6 and 8 Packer Close and Grove Croft than the appeal site.
11. The ENR also assessed individual 'process' sounds generated by operating a tracked excavator to load and unload it onto a lorry and a forklift to move stored, stacked equipment. This activity took place in the lawful part of the

³ Certificate of existing lawful development CLE/2006/6642 issued in October 2006

yard and was measured from within it. While this is further from Nos.178 and 180 Hyde End Road than the appeal site, it is significantly closer to Nos.6 and 8 Packer Close and Grove Croft.

12. There is also no evidence that the ENR measured or assessed process sound generated by mobile groundwork plant or forklifts in operation on the appeal site, nor did it give any reason why this was not possible. While the appeal site is further from Nos.6 and 8 Packer Close and Croft Grove than the yard, this activity taking place on the appeal site would be significantly closer to Nos.178 and 180 Hyde End Road than the yard.
13. Despite the absence of formal noise complaints from activity in the yard in the last 10 years, this does not take into account the proposed use and activity on the appeal site. Moreover, while the ENR has shown predicted acoustic improvement on the existing situation in certain respects, it does not provide a complete assessment of relevant continuous or process sound sources in the yard or on the appeal site or, therefore, predicated noise impact in these respects relative to the residential receptors. As a result, the appellant has not demonstrated the proposal would avoid potential unacceptable adverse noise disturbance or that the proposed mitigation is satisfactory or sufficient.
14. These considerations are material to a decision in principle to grant planning permission. Accordingly, it would not be appropriate to impose conditions to implement the proposed mitigation, grant temporary planning permission to monitor noise from use and activity in the yard and on the appeal site or to make the development personal to the existing business. These conditions would not alleviate potential unacceptable adverse noise disturbance meantime or, potentially, permanently.
15. In these circumstances, I cannot be certain that the proposal would not cause harm to the living conditions of the occupiers of Nos.6 and 8 Packer Close, Croft Grove and Nos.178 and 180 Hyde End Road having regard to noise disturbance. Consequently, it conflicts with Core Strategy⁴ (CS) policies CP1 and CP3 and Local Plan⁵ (LP) policy CC06. These policies include that new development should protect the living conditions and quality of life of residents from noise pollution.

Character and appearance

16. As it stands today, the yard and the appeal site are now within the defined development limits of Spencers Wood, surrounded by housing development. A narrow lane, Croft Road, runs past the appeal site on its east side; its tree and hedge lined verges give a distinct semi-rural feel, reminiscent of a past, more pronounced countryside context and setting to this area. The proposal would enlarge the yard and increase the extent of this pocket of commercial use within a predominately residential area. It would also bring outside storage closer to part of Croft Road.
17. However, the outside storage area would be inherently modest in size and in relation to the lawful part of the yard. No item stored individually or stacked would exceed 2m in height, as set out in the appellant's site management plan, and no floodlighting is sought within the appeal site. Both of these restrictions could be secured by conditions.

⁴ Wokingham Borough Core Strategy January 2010

⁵ Wokingham Borough Managing Development Delivery Local Plan February 2014

18. The storage area would not extend to the east boundary of the appeal site and be contained behind a 2.5m high timber acoustic fence, replacing incongruous similar height sheet metal panels along the top of a bank, facing Croft Road. Though slightly taller than usual it would be akin to a residential garden boundary, more sympathetic in appearance and despite its height and elevation above the lane, not very long. It would be set well back (5.62m) from the edge the lane behind a wide belt (about 3-4m) of existing and proposed planting in the sloping face of the bank and the verge planting in the lane (about 1.5-2m wide). This would significantly reduce its prominence and it would not be unduly obtrusive.
19. A hedgerow 1.5m in depth would be planted along the south edge of the storage area behind a similar 2.5m high timber acoustic boundary fence. A condition could ensure that the hedge was maintained at least 3m high. While also slightly taller than usual, both means of enclosure would not be manifestly out of keeping with the residential plots at Nos.178 and 180 (which include some close boarded fencing and tall shrubs or hedgerow) or others nearby. A tall hedge would not be incompatible in the context of the verdant Croft Road streetscene. The fence would stop sufficiently far from the lane (5.62m) that in conjunction with the intervening bank and verge planting it would not be unduly conspicuous.
20. There is no objective evidence to suggest that the proposed planting in the bank could not be carried out, or that any of the proposed planting would have no longevity beyond the appellant's suggested up to 10 year retention and maintenance period, which could be secured by a condition. The depth and height of this planting would help to assimilate the proposal into its surrounding residential context and maintain the semi-rural Croft Road streetscene, even in winter months. Outside storage of groundwork equipment and plant on only part of the appeal site could be specified in a condition. Even if planting on the appeal site was removed after 10 years there would be no authorised use of the previously planted areas for outside storage.
21. In these circumstances, the hardstanding and stored groundwork equipment and plant on the appeal site could not be observed in views from Croft Road or any other public view. The upper parts of vans or lorries or loaded groundwork equipment or plant in the lawful part of the yard, even if glimpsed, would be too far from Croft Road and transient in nature to be visually intrusive. By virtue of at least the lawful part of the yard the appeal site is in a mixed use area of development. There is no evidence that at least the lawful part of the yard would not continue in commercial use in the future.
22. In light of the above, the proposal would not substantially change the extent of lawful outside storage use in this location or significantly alter the way in which the surrounding area or Croft Road would be experienced. There would be no innate incompatibility or fundamental imbalance in the overall pattern and type of development in the immediate locality. It would continue to reflect key characteristics of Landscape Character Area J3⁶ such as a densely settled landscape, large scale-residential development and a network of rural lanes.
23. Accordingly, I find that there would be no harm to the character or appearance of the area. Consequently, the proposal complies with CS policies CP1 and CP3 and LP policies CC03 and TB21. These policies include that development should

⁶ Wokingham Borough Landscape Character Assessment November 2019

maintain or enhance the quality of the environment, be appropriate in scale, layout and height to its context, contribute to a sense of place, retain or enhance existing planting and provide high quality landscaping.

Other Matters

24. I understand that the occupiers of No.6 Packer Close are concerned about the current use and operation of the yard, including activity within it, but this is a matter for the appellant or the Council. While groundwork equipment and plant in the proposed outside storage area would be seen from some windows of this house there is no right to a private view. Considering the significant intervening distance and with storage restricted in height to 2m there would not be any adverse effect on outlook or natural light experienced at this house.
25. The main parties have referred me to dismissed appeal decisions for three houses on a site elsewhere in Croft Road⁷, an extension to the yard for storage of formwork⁸ and a proposal to 'extend area of existing builders yard' which as I understand it broadly included similar proposed development as in the current appeal on most of the current appeal site⁹. While I have taken these decisions into account, I have considered the current proposal, and determined the current appeal, on its individual planning merits and the evidence before me.

Planning Balance

26. The proposal could lead to more efficient and effective operation of the existing family owned business, established in the yard many years ago and before some of the surrounding residential development. There is, though, no mechanism before me to ensure that the yard would be re-organised, including to lower the height of stored or stacked equipment or plant, or to prevent an intensification of the existing business, as the appellant otherwise suggests.
27. Nonetheless, the appeal site is in a settlement, commercial development on it is acceptable in principle and as such the proposal would have some economic benefit. Although some vegetation has been removed, there would be new fences and planting and the character and appearance of the area would be maintained. These outcomes would be aligned with relevant policies of the Council's development plan and have modest weight in support of the proposal.
28. However, there is conflict with the development plan due to unresolved potential noise disturbance considerations. Harm to the living conditions of nearby residents is an important social factor and has significant weight against the proposal. The benefits do not, therefore, outweigh the harm.

Conclusion

29. The proposal does not accord with the development plan taken as a whole. There are no other considerations to indicate that the decision should not be made otherwise in accordance with the development plan. Consequently, for the reasons given above the appeal does not succeed.

Robin Buchanan

INSPECTOR

⁷ APP/X0360/W/21/3269790

⁸ APP/X0360/A/08/2064230

⁹ APP/X0360/W/18/3211871