



Appeal Decision

Site visit made on 8 November 2022

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2023

Appeal Ref: APP/R0660/W/22/3300102

Station Yard, Wrenbury Road, Wrenbury, CW5 8EX

- 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 Graham Heath of Graham Heath Group Limited against the decision of Cheshire East Council.
 - The application Ref 20/4181N, dated 21 September 2020, was refused by notice dated 10 March 2022.
 - The development proposed is for a change of use from mixed storage and retail to B2 along with the provision of replacement concrete plant.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the submission of the appeal, the Council adopted the Cheshire East Local Plan Site Allocations and Development Policies Document (SADPD) in December 2022, which replaces the Crewe and Nantwich Replacement Local Plan. Policy BE.1 of the Replacement Local Plan has been replaced by Policy HOU 12. The main parties have been given an opportunity to comment on the change to the development plan and I have had regard to the comments received. I have therefore considered the appeal against the relevant policies of the SADPD.
3. Network Rail submitted late comments in relation to the safety of the level crossing on Station Road. Both main parties have had the opportunity to comment on this and I have determined the appeal accordingly.

Background and main issue

4. The appeal site forms part of a larger parcel of land owned by the appellant. It is a broadly rectangular plot which is situated to the north east of Station Road behind a row of properties, Station House and 1-4 Station Cottages. The site is bounded by the railway line and Wrenbury Station to the north west, by Graham Heath Construction Limited to the north east and by Wrenbury Business Park to the south east. Access to the site is from Station Road between Station House and 1 Station Cottages. The site is gated, concrete walls have been erected on the boundaries of the site and it has been surfaced in concrete.
5. The appeal site and the adjacent sites within the appellant's control have a detailed planning history. The appeal site has planning permission to be used for the storage and retail of reclaimed timber and materials. The appellant

purchased the site in 2014 with the objective of incorporating it into their existing business, Concrete Panel Systems Limited, which is a manufacturer of prestressed concrete panels and precast interlocking concrete stacking blocks and has operated at land to the north east of the appeal site for several years. The existing concrete panels business was allowed on appeal in December 2012¹. That land includes an existing concrete batching plant and building. The appellant says that the existing concrete batching plant is in a poor state of repair and, as a result, a new replacement batching plant that is the subject of this appeal, has been installed on the appeal site but has not yet been brought into use. The appellant intends to decommission the existing batching plant once the replacement batching plant is operational.

6. The reason for refusal relates solely to concerns that the proposal would result in an unacceptable impact on the living conditions of the two residential properties adjacent to the site access by reason of noise and vibration from heavy goods vehicles (HGVs) accessing the site. The Council raised no specific objections in relation to any of the other operations of the development, including the replacement batching plant itself and internal vehicle movements associated with the proposed use.
7. Therefore, the main issue is the effect of the proposed development on the living conditions of neighbouring occupiers of Station House and 1 Station Cottages, having particular regard to noise and vibration.

Reasons

8. The site access runs between Station House and No 1. It is bounded by the front gardens, the gable ends of each of the adjacent dwellings and their rear gardens. Station House has ground floor and first floor windows to the gable end facing towards the site access, whilst No 1 has two ground floor windows to the gable end and windows to the side of a rear conservatory. Both properties have ground and first floor windows to the front and rear elevations. The rear garden of Station House has a brick wall and fencing adjoining the access and No 1 has a close boarded fence along the boundary with the access.
9. The proposed site access is long established having been used in connection with the previous use of the site for the storage and retail of reclaimed timber and materials. The access was also to be used in connection with a proposed affordable housing scheme which was approved in 2012². However, that consent was not implemented. The ambient noise climate of the area is influenced by noise from traffic on Station Road, from the existing access road to the south and from passing trains.
10. The appellant proposes to use the site access for HGV deliveries of sand, cement and aggregate which would be fed into the replacement batching plant, and by non HGVs in the form of staff and visitors' vehicles. In terms of use of the site access by HGVs, the appellant anticipates the proposal would result in a maximum of 6 no two way movements per day (12 movements in total). The private road access to the south of and outside the site would continue to be used by HGVs to move the finished product off-site.
11. I consider that HGVs, albeit slow moving, would be likely to result in significant noise and vibration to the two adjacent properties, particularly when needing to

¹ Council ref 12/0447N; Appeal ref APP/R0660/A/12/2175066

² Council ref 11/1165N

manoeuvre at slow speed within such close proximity of the gable ends. That impact would be experienced within the properties, both of which have windows facing towards the access road, as well as within their rear gardens. HGVs entering the site will have to stop with engines running while the driver gets out and the gates are opened and the weighing process takes place. The process would take some time to complete which would prolong noise and vibration for the neighbours. The noise from the engine idling and the HGV cab door being closed when the driver gets back in would be likely to cause noise disturbance to the neighbours especially when their windows are open.

12. The access point onto the main road is constrained. The evidence indicates that in order to obtain entry to the site HGVs on occasion have had to reverse back onto the main road due to the constrained nature of the site access or when meeting another HGV leaving the site. That would be likely to cause further noise and disturbance for the neighbours. Upon leaving the site the gates can automatically open enabling HGVs to exit without stopping but that would still result in large slow moving vehicles within very close proximity of the windows and gardens of the adjacent properties.
13. In support of the appeal, the appellant has submitted a Noise and Vibration Impact Assessment which sets out the findings of a site inspection and desktop assessment of the potential noise and vibration impact associated with use of the site access road to deliver cement, sand and aggregates to the appeal site. The assessment has considered the noise levels that will be generated by one HGV arrival and departure per hour via the access road, including traversing the weighbridge and periods when HGVs are stationary waiting to gain entry.
14. The assessment concludes that there would be no unacceptable adverse noise or vibration impact due to HGV use of the access road for aggregate deliveries. However, the assessment was carried out on the basis that there would be 6 HGV arrivals and 6 departures per day. In this regard, the appellant suggests that a condition could be imposed to restrict the number of HGV movements using the proposed access to 6 no two way movements per day.
15. However, I have insufficient evidence on how a condition to restrict the number of HGV movements could be enforced. Although the appellant states that the site access is within their ownership, it is not within either the red line boundary for the appeal site or the blue line delineating other land within their control. Therefore, on the basis of the evidence before me I am not convinced that such a condition could be used to limit the number of HGV movements in the manner proposed. Accordingly, it would not meet the tests for conditions set out in the Planning Practice Guidance. Moreover, there is already a condition attached to the 2012 permission limiting the number of HGVs using the access road to the south. In these circumstances, it would be difficult to monitor in terms of being able to count the number of movements at both access roads and identify which vehicles were HGVs and which were not. This is of particular concern as signage has previously been erected directing all deliveries not to use the other access road but to use the proposed site access the subject of this appeal, albeit that was on a short-term basis. The number of HGVs using the proposed site access may be greater in the future, particularly if there is no enforceable condition to limit numbers of movements. Whilst the appellant says that there is to be no net increase in production on the wider site, the potential for increased capacity cannot be ruled out in the future. Even if a condition could be imposed to restrict the number of HGV movements, I

- consider that 12 movements a day would still be likely to result in significant noise and vibration for the adjacent occupiers for the reasons given above.
16. Furthermore, the Noise and Vibration Impact Assessment does not appear to address the cumulative impact of noise and vibration from HGVs using the site access together with noise associated with others operation on the site including the replacement concrete batching plant. The use of the proposed access by non-HGVs, which would also be likely to have some noise impact given the proximity of the two adjacent properties, does also not appear to have been factored into the overall impact on the neighbouring occupiers.
 17. The walling and fencing to the sides of the rear gardens of the adjacent properties might provide some mitigation, though given their height these would be unlikely to significantly reduce noise experienced within the properties and their rear gardens as a result of passing HGVs. Improvements to the condition of the surface of the site access and its subsequent maintenance would not sufficiently allay my concerns in this respect. It would be possible to restrict the hours of operation to those suggested by the appellant, but that would mean the proposed use and associated vehicle movements could still occur for large proportions of the week.
 18. Whilst the proposed access has been used historically in connection with previous uses of the site, there is no substantive evidence before me to demonstrate that it has ever been used as intensively as is now proposed or by large numbers of HGVs, or that the approved use of the site for the storage and retail of reclaimed timber and materials would necessarily result in more vehicle movements, particularly in terms of HGVs, than the appeal proposal.
 19. I note that the Council's Environmental Health Officer did not object to the proposal on grounds of noise and disturbance, subject to conditions. However, as the proposed site access is not included within the red line boundary, it is unclear from the evidence whether the Officer was aware that the access road between the two properties was proposed to be used to provide access to the site and I cannot be certain that they assessed the impact arising from the use of that access by HGVs. In any case, I have reached my own view on these matters on the basis of the evidence before me and my observations on site. The lack of objection from the occupiers of the two properties adjacent to the proposed site (one of which is owned by the appellant) does not justify a proposal I consider to be harmful and the National Planning Policy Framework (the Framework) seeks to ensure that development provides a high standard of amenity for existing and future users.
 20. For the above reasons, I conclude that the proposal would be significantly harmful to the living conditions of the neighbouring occupiers of Station House and 1 Station Cottages, having particular regard to noise and vibration. The conditions suggested by the appellant would not make the development acceptable for the reasons given above. The proposal would therefore be contrary to Policies HOU 12 and RUR 10 of the SADPD, Policy SE 12 of the Cheshire East Local Plan Strategy 2010 - 2030 (2017) and Policy LEC1 of the Wrenbury Cum Frith Neighbourhood Plan 2010 - 2030. Amongst other things, these policies seek to ensure that development does not cause unacceptable harm to the amenities of adjoining or nearby occupiers of residential properties, including in terms of noise, disturbance and vibration. The proposal would also conflict with paragraphs 130 and 174 of the Framework, which seek

to ensure a high standard of amenity for existing and future users and prevent new and existing development from being adversely affected by unacceptable levels of noise pollution.

Other Matters

21. A number of other concerns have been raised made by interested parties, principally relating to road safety as well as the environmental impacts of the development. I also note the objection from Network Rail in relation to the impact of the proposal on the safety of the nearby railway level crossing. As I am dismissing the appeal for the other reasons given above, it has not been necessary for me to reach a conclusion on the other matters raised.
22. The proposal would support the existing business operations and associated employment. I have carefully considered the benefits of using the proposed access over the existing private access to the south. These include the condition of the road surface of the private access, its use by other users and parking obstruction, and that the proposal offers a more direct and efficient layout of the overall site.
23. The use of the proposed access would reduce the number of HGV and non-HGV vehicle movements using the existing access, but the appellant still intends to use the existing private access for deliveries of their end product off-site. The appellant says that the layout would improve circulation throughout the wider site and aggregate deliveries would not need to negotiate around a pinch point, but there is no substantive evidence before to demonstrate that the business could not operate viably without the use of the proposed access as it appears possible that the existing access to the south could still be used to provide HGV access. Any benefits to the occupiers of No 4 Station Cottages or reduction in vehicular conflict with other users of the private road would be limited as it would still be used for HGV access. The appellant also suggests that the proposal would result in improved natural surveillance and health and safety, though any benefits in regard to these matters have not been demonstrated. The proposal would enable the existing batching plant to be relocated away from the neighbouring property of Holly House, though I have no substantive evidence before me to indicate that the existing plant has previously caused problems for the occupiers of that property. I conclude that the benefits of the development would be outweighed by my findings as to the harm that would be caused.

Conclusion

24. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR