



Appeal Decision

Site visit made on 5 April 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 5 June 2023

Appeal Ref: APP/P0240/W/22/3304349

57 Church Street, Biggleswade, Beds, SG18 0JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval required by a condition of a planning permission.
 - The appeal is made by Mr J Chandran against the decision of Central Bedfordshire Council.
 - The application Ref CB/22/00921/DOC, dated 25 February 2022, sought approval of details pursuant to condition 2 of a planning permission CB/21/04315/FULL, granted on 15 December 2021.
 - The application was refused by notice dated 20 July 2022.
 - The application proposed is a conversion from previous salon (class E) to residential dwelling.
 - The details for which approval is sought are: Prior to the development hereby approved being brought into use a scheme for protecting the proposed dwelling from noise arising from the road transport and commercial noise sources has been submitted to and approved in writing by the local planning authority. The scheme shall be supported and informed by an appropriate noise impact assessment carried out in accordance with relevant technical standards. The dwelling shall not be occupied until such a scheme has been implemented in accordance with the approved details, and shown to be effective, and it shall be retained in accordance with those details thereafter.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted for the conversion of the appeal site from hair salon to a residential dwelling. This was subject to a pre-commencement condition. The appellant is seeking to discharge this condition, which was imposed to protect the living conditions of the future occupants of the appeal site, with specific regard to noise.
3. The Council refused permission for this discharge on the grounds that the noise impact assessment had not been carried out in accordance with the relevant technical standards.
4. The main issue therefore is whether the scheme would be effective and whether the noise impact assessment is appropriate, with specific regard to noise arising from road transport and commercial noise sources.

Reasons

5. The appeal site was previously used as a commercial property and is located adjacent to Church Street and a property which utilises three commercial condenser units.
6. A Noise Impact Assessment (NIA) was submitted by the appellant as part of the supporting information for the application and used the British Standard (BS) 8233:2014 assessment process. The NIA concluded that noise from the road traffic would have a low impact and the Council have raised no concerns in relation to this part of the assessment. However, the Council's concern is that the NIA should have also used the British Standard (BS) 4142:2014 assessment process, to deal with potential noise issues from the commercial condenser units. The parties do not agree on which standard should be used to assess the noise impact from the commercial units.
7. Specifically, (BS) 8233:2014 provides a mechanism for assessing the control of noise in and around buildings, including outdoor noise sources such as road traffic, but does not include industrial noise. (BS) 4142:2014 provides a mechanism for assessing sound of an industrial and/or commercial nature, including mechanical plants.
8. While I accept that the appellant has revised the NIA several times to address the concerns of the Council, such as the need to assess the condenser units while they are in active operation, the NIA has continued to only use the (BS) 8233:2014 assessment process. While (BS) 8233:2014 may form the basis of the mitigation strategy, this would only be effective if supported and informed by an NIA which address all the relevant sources of noise. Accordingly, the NIA should also include (BS) 4142:2014 to adequately assess the sound from the three commercial condenser units. While Condition 2 does not require the use of (BS) 4142:2014, it is the relevant technical standard for sound of an industrial/and or commercial nature.
9. I have considered the appellant's comments regarding mitigation, which includes the location of the first-floor window and the intermittent use of the commercial condenser units. It may also be the case that the primary noise impact is from passing road traffic and that the (BS) 8233:2014 standard is appropriate in this regard. However, as the NIA does not incorporate (BS) 4142:2014, it has not been carried out in accordance with the relevant technical standards. As such, there is insufficient evidence before me to be reasonably certain that a good standard of habitable room background noise would be maintained by the proposed mitigation design solutions, since the relevant technical standards have not been applied.
10. The appellant's concern that the Council only requires the use of (BS) 4142:2014 in order to limit their need for further involvement has not been evidenced, given the suitability of that standard to assess the sound from the commercial units.
11. Consequently, the discharge of condition 2 should not be approved. I find that an appropriate noise impact assessment with specific regard to commercial noise sources has not been completed. Therefore, I cannot be reasonably certain that the proposed mitigation design solution would be able to ensure appropriate living conditions for future occupiers. This proposal therefore would conflict with Policy HQ1 of the Central Bedfordshire Local Plan (2021) which

seeks to ensure that development would not result in an unacceptable adverse impact upon nearby existing or permitted uses, including impacts on noise. Although in this instance, it is the future occupiers who would be affected, I am satisfied that the general aims of this policy are relevant. In any event, it would also be contrary to provisions of the National Planning Policy Framework which seek to ensure that development will create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Conclusion

12. I have found that the appeal scheme conflicts with development plan policy and thus find that it would be contrary to the development plan as a whole. No material considerations have been demonstrated which would outweigh the conflict. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR