
Appeal Decision

Site visit made on 21 June 2024

by Mike Worden BA (Hons) DipTP MTRPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/R0660/W/24/3337871

Station Yard, Wrenbury Road, Wrenbury, Cheshire, CW5 8HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Graham Heath Group Limited against the decision of Cheshire East Council.
 - The application Ref is 23/1366N.
 - The development proposed is Full planning application for a change of use from mixed storage and retail to Class B2 along with the provision of replacement concrete plant.
 - (resubmission of 20/4181N).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the application includes a reference that the application is a re-submission of a previous application. This is not the case however as some of the details including the boundary of the application site and the proposed point of access are different.

Main Issue

3. The main issue is:

The effect of the proposal on the living conditions of the occupants of neighbouring dwellings with particular regard to noise, disturbance and dust.

Reasons

4. The appeal site comprises an area of land close to Wrenbury Station. It lies to the rear of a row of five houses which are located on Wrenbury Road. The north western boundary of the site adjoins the Crewe-Shrewsbury railway line. The appeal site is in an area of established commercial and business uses close to the station. To the south west of the appeal site there is a small industrial estate (the Wrenbury Industrial Estate) and a residential property, Holly House. To the north west, the commercial area extends alongside the railway line.
5. The appeal site has been significantly enlarged from that which was the subject of the most recent appeal¹. That site mainly comprised an area closest to the station and the houses on Station Road, and which I will refer to as Station yard. The extended area, which is the subject of the current appeal, encompasses part of the wider commercial and industrial area. This area is

¹ APP/R0660/W/22/3300162

referred to by the appellant as the Concrete Panel System site². The area outside of the Station yard has a long planning history having been used for food production and as a creamery in the past.

6. The north eastern part of the appeal site is used for the manufacture of concrete panels and for other industrial activities. There is a large steel framed building, some other buildings and an existing concrete batching plant. Residential properties comprising of Station House and Station Cottages front onto Station Road and back on to the appeal site. A large detached house fronts onto Station Road on the opposite side of the railway line to the appeal site. Immediately to the north of that property is a small group of houses accessed off Station Road.
7. The proposal is described as to change the use of the site from retail and storage to B2 uses, and to replace an existing concrete batching plant with a new upgraded facility. However, the widening of the site from that of the previous appeal, means that land with consent for uses other than retail and storage are included. It is the land to the west of the site, the Station yard area, which has the consent for retail and storage. This would bring B2 uses closer to the houses on Station Road than is the case currently.
8. The replacement plant has already been constructed on the Station yard part of the site without planning permission but has not yet been commissioned. When commissioned it would replace the one that lies on another part of the site. That one would be demolished. The existing private access road off Station Road would be utilised to access the site. This is the access to the existing wider site operation and which also serves Holly House and a commercial unit. This is a different access to the previous planning appeal.
9. The proposal would not involve any additional vehicle movements, or changed pattern of movement than the existing position of 6 two way HGV movements per day. This would fall within the limit of 24 daily HGV movements per day permitted in the existing consent.
10. A noise assessment³ was submitted with the application. It is an updated assessment from that submitted with the previous planning application, although the survey work is from 2021. According to the report itself the only change is a slightly revised appeal site boundary, but the boundary shown in Figure 1 is not the same as the redline boundary in this appeal.
11. The noise assessment is referenced as an assessment of the proposed concrete batching plant. It has been produced to accommodate advice from the Council's environmental health officers and they have no objections to the proposal in light of the report's findings and recommendations. In making its decision however, the committee disagreed and part of the Council's case is that there is a need to consider impact on residential amenity which the Council argues may be a different test to one on public health.
12. The appellant's noise survey shows that with mitigation, there would be an acceptable impact on nearby properties in respect of noise arising from the new concrete batching plant. This would be subject to measures to enhance the sound insulation and additional acoustic screening.

² Appellant's full statement of case Figure 1

³ Noise Impact Assessment of New Concrete Batching Plant - Hepworth Acoustics

13. There are a significant number of objections to the proposal from local residents, parish councils and groups. These express concern about the cumulative impact of the proposed development on the amenity of local residents.
14. In respect of noise, no alternative technical evidence has been submitted to counter the appellant's noise survey. The only technical evidence in relation to noise is the appellant's survey and report. This has been accepted by the Council's environmental health officers and the Council in its statement of case does not challenge its technical findings, rather that it does not adequately deal with the cumulative impact of noise arising from the proposed batching plant and other noise on and around the site.
15. Although the red line boundary of this planning appeal differs from that shown in the noise report, the proposed location of the batching plant has not altered. I therefore consider that the alteration of the red line boundary does not materially affect the technical results of the noise report in respect of the operation of the batching plant itself. The noise report sets out how background noise has been measured and assessed. At paragraph 4.14 the report states that the approach to the background noise assessments had been agreed with the Council's environmental health officers before readings were taken. At paragraph 4.15 the report states that these were carried out in accordance with the relevant British Standards.
16. The results of the noise assessment show that without further noise mitigation the mixer head noise will be the most significant element of the noise arising from the new batching plan at the nearest dwelling, at around 3dB higher than the lowest measured residual noise level. The assessment indicates that there could be significant adverse impacts, depending upon context. It proposes a number of additional mitigation measures which could be dealt with through conditions. With these measures in place it is argued that the noise arising from the concrete plant would have a low impact on neighbouring properties.
17. The altered access in this appeal compared to the previous proposal means that HGVs will not be entering and leaving the site between Station House and Station Cottages, which was a concern of that Inspector. I have no evidence that the access proposed in relation to this appeal would cause harm to the living conditions of those properties or other properties with regard to noise through movements onto or off Station Road.
18. The red line boundary was amended during the application process to widen the site to take more of the appellants land into the appeal site. This has the effect of increasing the area to which any conditions would apply. This, to some degree, would address the concerns of residents that materials could be moved off the appeal site but within the appellant's ownership such that additional vehicle movements could be made beyond those specified in conditions.
19. Setting aside the noise which would result from the concrete batching plant and from HGV movements, there is a need to consider noise emanating from the change of use of the site to B2 and its impact on residential amenity. This general activity noise has been the subject of concerns from local residents and is well documented in their representations, particularly from Wrenbury Parish Council.

20. On my site visit I observed activity being undertaken within the redline area close to the hedge alongside the access road, outside of the Concrete Panel System site. This appeared to consist of panels being placed in stacks by forklifts in the open and being cut with power tools. This was generating noise which was very audible off site and in the vicinity of the rear of the properties on Station Road.
21. The noise survey which assessed background noise on the site was undertaken in March 2021, over three years ago. That report does not appear to set out an assessment of the noise impact of the whole potential proposed B2 activity across the site, other than that directly associated with the operation of the concrete batching plant, on nearby residential properties including those on the southern side of the railway.
22. I have taken account of the submitted noise management plan, and also the suggested conditions. I do not consider that the wording of the suggested condition which requires further acoustic assessments and possible mitigation measures once the site is operational would be acceptable in this case, nor accord with the necessary tests set out in planning practice guidance⁴.
23. There is clearly a potential issue with the effects of the proposed B2 activity on the site given the concerns of local residents and Wrenbury Parish Council, and as observed and heard by me on my site visit. The cumulative impact of this activity across the whole of the red line boundary, on the living conditions of the occupiers of neighbouring property has not, in my view, been fully assessed. I am not convinced, that there is sufficient up to date evidence submitted, for me to be confident that there would not be any harm to residential amenity caused by the proposed activities as a whole with particular regard to noise. In reaching this view I have had regard to the distances between the red line and the houses on Station Road as set out by the appellant in its statement and I was able to see this myself on the site visit.
24. I have had regard to the email exchange between the appellant and the Council seeking advice about the additional information which the Council thought would be required. That the Council has not been specific in its response does not alter my view. The Inspector who dismissed the most recent appeal did so on the basis of the impact of HGV movements through a different access but she did make it clear that she did not therefore need to reach a conclusion on the other matters raised which included environmental impacts. That does not mean that she considered them to be acceptable. I therefore see no conflict between her decision and mine.
25. There is no evidence before me that subject to adherence to the dust management plan, there would be unacceptable harm to the living conditions of the occupiers of neighbouring properties in relation to dust arising from the concrete batching plant. However, it is unclear from the plan how any dust issues arising from the B2 uses other than the batching plant would be managed so as not cause harm.
26. There would inevitably be some disturbance to the occupiers of neighbouring properties but there is no demonstrable evidence to indicate that, subject to adherence to conditions including hours of operation, this would to an unacceptable degree, other than on the grounds of noise.

⁴ Planning Practice Guidance - The Use of Planning Conditions - Paragraph: 006 Reference ID: 21a-006-20140306

27. I have no demonstrable evidence that movement of HGVs through local villages in accordance with the suggested conditions would cause harm to amenity or to road safety.
28. The proposal would bring some economic benefits and allow the replacement of the existing concrete batching plant with a more modern one. I attach some weight to these benefits but these do not outweigh the harm that I find.
29. For the reasons set out above I consider that the proposal would be harmful to the living conditions of the occupants of neighbouring dwellings with particular regard to noise. This would be contrary to Policy SE12 of the Cheshire East Local Plan Strategy 2010-2030 which seeks, amongst other things, to ensure that development would not have a harmful or cumulative effect on environmental factors including noise, which could detrimentally affect amenity. It would also be contrary to Policy HOU12 of the Cheshire East Local Plan Site Allocations and Development Plan Policies Document which seeks to ensure that development would not cause unacceptable harm to the amenities of adjoining or nearby occupiers of residential properties including through environmental disturbance or pollution.
30. The proposal would also be contrary to Policy LEC1 of the Wrenbury Cum Frith Neighbourhood Plan which supports proposals for small scale employment development subject to certain criteria, one of which is that it should not significantly affect the amenity of the occupiers of nearby buildings. The proposal would also conflict with paragraph 191 of the National Planning Policy Framework which seeks to avoid adverse amenity effects from new development.

Conclusion

31. For the reasons given above the appeal should be dismissed.

Mike Worden

INSPECTOR