



Appeal Decision

Site visit made on 13 May 2024 by Andreea Spataru BA (Hons) MA MRTPI

Decision by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/X3025/W/24/3338727

195 Nottingham Road, Mansfield NG18 4AA

- 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 Roberts (Managed Healthcare Services Ltd) against the decision of Mansfield District Council.
 - The application ref is 2023/0580/FUL.
 - The development proposed is described as 'proposed siting of a mobile MRI scanning unit'.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary matters

3. The address of the appeal site has been taken from the appeal form, rather than the application form, as it is more detailed.
4. This appeal relates to a retrospective planning application for siting of an MRI scanning unit that was sited within the car park at 195 Nottingham Road Clinic around 2 October 2023¹. The evidence submitted, particularly the Noise Impact Assessment Report 15th December 2023 (noise survey), relates to the aforementioned MRI scanning unit.
5. The MRI scanning unit was replaced with a new MRI scanning unit after the planning application was decided by the Council. Therefore, the submitted noise survey does not relate to the MRI unit that was observed at the site visit. However, irrespective of the changes that may have subsequently taken place on the site, my determination of the appeal is based on the submitted noise survey.
6. The appellant indicates that planning permission is sought for temporary use and the intention is for the MRI scanning unit to be removed around the middle of 2025. My consideration of the appeal development was made on this basis.

¹ Page 3 of the Appeal Statement February 2024

Main Issue

7. The main issue is the effect of the development on the living conditions of nearby residents, with particular regard to noise.

Reasons for the Recommendation

8. The nearest dwellings to the appeal site are No 201 Nottingham Road to the south of the MRI unit, and No 1 Oakham Close to the east. The submitted noise survey states that the assessment conducted relates specifically to the noise impact for the rear elevation of No 201 Nottingham Road and does not consider the noise impact for the garden of this property or at any other receptors. The mitigations proposed within the report also aim to minimise noise within No 201 and have been proposed in the context of the MRI scanning unit having a temporary use of up to 18 months.
9. The noise survey outlines three scenarios for mitigations, where scenario 1 is as existing, scenario 2 includes a 1m partial enclosure/ extension to the top/roof of the MRI scanner plant area, and scenario 3 includes scenario 2 with the addition of a 4.3m acoustic barrier to the south side of the MRI scanner. The results indicate that with the scenario 3 mitigations in place, it is likely to reduce the noise impact at the external façade (rear elevation) of No 201 Nottingham Road from a Significant Adverse impact to the threshold of Low/Adverse Impact. Notwithstanding this, the proposed mitigations do not address the levels of noise that affect the rear garden of No 201 or the residential property No 1 Oakham Close.
10. Figure 10 of the noise survey illustrates the noise contour plot illustration of the predicted propagation of sound from the MRI unit during the night-time for scenario 3. It shows higher levels of noise in the rear garden of No 201 than those next to the rear elevation, and significantly more concerning levels for the occupiers of No 1 Oakham Close.
11. I note that the mitigation solutions have been confirmed as being viable by the manufacturer of the unit and I understand the noise survey's aim to address specific concerns expressed in relation to No 201 Nottingham Road. However, the lack of representations from other residents does not negate the need to ensure that developments are designed and constructed to avoid and minimise impacts on the amenity of both existing and future users, within the development and close to it. As such, developments are expected not to generate a level of noise which cannot be mitigated to an appropriate standard, as required by Policy P7 of the Mansfield District Local Plan 2013 – 2033 (LP).
12. Therefore, whilst the proposed mitigations would reduce the noise impact to low/adverse for the rear elevation of No 201, it fails to demonstrate that an acceptable level of noise can be achieved for the occupiers of No 201 when utilising their rear garden, or for the occupiers of No 1 Oakham Close. Consequently, I am not satisfied that the development would not unacceptably harm the living conditions of nearby residents with particular regard to noise.
13. Accordingly, for the reasons set out above, the development is contrary to the requirement of Policy P7 of the LP, as outlined above, and the aims of the National Planning Policy Framework (paragraph 191), which seek to ensure that new development is appropriate for its location by mitigating, and

reducing to a minimum, potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Other matters

14. The development is sited within the curtilage of No. 195 Nottingham Road, which the Council identifies as a non-designated heritage asset. The Council found that the development has some visual impact due to its nature, design, and materials. However, the impact was found acceptable for a temporary period, which could have been secured through a planning condition. Given the evidence before me, I have no reason to disagree with the Council's findings on this matter.
15. The appellant indicates that the new MRI scanning unit has improved the nature of the noise with regard to the excessive and intermittent character. Be that as it may, my conclusions above are based on the submitted noise survey.
16. I acknowledge the appellant's willingness to mitigate the noise pollution and I understand the public benefits of the scheme. However, there is no evidence to suggest that this is the only feasible location for the scanner in the locality and these benefits could also be achieved by siting the mobile unit in a location where it does not cause harm to the living conditions of nearby residents. Therefore, I only attach moderate weight to these benefits. Moreover, in causing unacceptable harm to the living conditions of nearby residents the proposal fails to accord with the relevant development plan policy relating to noise pollution. This conflict attracts considerable weight and the benefits advanced are not sufficient to outweigh the identified conflict with the development plan.

Recommendation

17. The appeal scheme would conflict with the development plan and there are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Therefore, I recommend the appeal to be dismissed.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

Alison Partington

INSPECTOR