



Appeal Decision

Site visit made on 9 July 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/V4630/W/24/3336271

1 The Willenhall Estate, Rose Hill, Willenhall WV13 2AR

- 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 Collier Metals Ltd and London and Cambridge Properties Ltd against the decision of Walsall Metropolitan Borough Council.
 - The application Ref is 22/1659.
 - The development proposed is described as the "change of use to collection and sorting of scrap metals".
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development applied for has already been carried out. Therefore, the application is retrospective, and I have considered the appeal on that basis.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring properties, with regard to noise.

Reasons

4. The appeal site lies within an established industrial estate and comprises an industrial building and gated yard. It has been in industrial use for a number of years and was previously in use as a builder's trade centre. Uses within the wider industrial area have the potential to generate noise, in addition to the road noise associated with traffic along Rose Hill.
5. The appeal site is located close to several residential properties. To the east is The Waterglades, a three storey development of residential flats, and broadly to the south east is a row of two storey terraced properties. Due to its proximity, the appeal site is visually prominent when viewed from these neighbouring buildings.
6. The appeal scheme seeks to secure permission for the collection, sorting and storage of scrap metals. The appeal documentation states that no industrial processing takes place, with the metals stored and sorted into bins within the appeal site and then collected and taken off site for recycling. While the majority of the operations take place within the building, the gated yard is also used for some storage.

7. The appeal scheme is supported by a noise survey¹, which is a revision to the original report², and also includes the addendum³. The noise report now references British Standard BS 4142:2014+A1:2019 and measurement records to substantiate the background noise measurements.
8. The appellant asserts that the appeal site does not generate a significant amount of traffic, with the noise survey stating that fork lift truck movements are the predominant noise source. It concludes that the Rating Level is +3 above the Background Level. The noise survey further asserts that while this measurement is between 'low impact' and 'likely to be an indication of an adverse impact', the context of the area is such that noise from the appeal site is not likely to be an indication of an adverse impact on local residents.
9. While noting this, the noise survey states that the loudest noise event was the tipping of aluminium onto the concrete floor of the industrial unit, which the original report also identified as the biggest issue of noise at the appeal site. It is acknowledged, however, that such a process is no longer carried out and the way the appeal site now operates is different to when it was assessed by the original report.
10. The appellant highlights that the appeal site is currently managed, with the noise survey highlighting a number of mitigation measures that have been enacted since the original report. These include small loads being taken by hand into and out of the site, the majority of recycling being done with much smaller loads and predominately using 'ton sacks', restricting the tipping of materials straight onto the floor or into large skips and reverse sirens not being in use on the fork lift trucks.
11. While the use does not commence early in the morning or operate late at night, there is no mechanism before me which could reasonably control and enforce the mitigation measures highlighted. As such, there would be nothing to restrict the business operations from changing in the future.
12. In view of this and noting that the Council have not produced any independent surveys, given the findings of the noise survey and original report in respect to the tipping of materials, the appeal scheme has the potential to materially increase noise levels to a level that would be detrimental to the existing occupiers of adjacent neighbouring properties. While located within an established industrial estate, given the appeal site's relationship with, and proximity to, the neighbouring residential properties, the appeal scheme does not fully take into account the site's context and surroundings.
13. The appellant states that Policies IND1 and IND2 of the Walsall Site Allocations Document 2019 identify the appeal site as being safeguarded or having potential for high quality industrial uses, including waste management. They further highlight that there is also policy support for development proposals involving scrap metal within employment areas and that it is necessary to assess each proposal on its merits. Moreover, the National Planning Policy Framework (the Framework) states, among other things, that planning decisions should recognise and address the specific locational requirements of different sectors. Although the principle of the appeal scheme is therefore

¹ Industrial Noise Survey, dated 7 June 2023, report number 10903revA

² Industrial Noise Survey, dated 7 April 2021, report number 10903

³ Industrial Noise Survey – Addendum, dated 2 March 2023, report number 11125

supported, harm has, nonetheless, been identified in respect of the main issue.

14. The appellant has confirmed that the appeal scheme was implemented before March 2021 and has been in continual use. While a Freedom of Information request indicates that there have been no complaints, interested parties have, nevertheless, raised concerns in respect of noise, among other things. In any case, an absence of complaints is not determinative.
15. An earlier planning application was recommended for approval, with the Environmental Health Officer raising no objection. While the planning history of the appeal site is a material consideration, the Planning Committee, nevertheless, resolved to refuse that application. This therefore limits the weight that can be attributed to the previous application.
16. D J Smith Plc, a paper and plastic recycling and reclamation facility, located adjacent to the appeal site, has been drawn to my attention. It was granted planning permission under reference 19/0176. Based on the evidence submitted, this site does not immediately adjoin residential properties and does not manage the same materials as those referenced within the appeal scheme. As such, this site is not directly comparable. In any case, I have considered the appeal on its own merits.
17. Consequently, for these reasons, the development unacceptably harms the living conditions of occupiers of neighbouring properties, with regard to noise. This is contrary to Policies ENV10, ENV32 and JP8 of the Walsall Unitary Development Plan 2005. Collectively, these seek, among other things, to ensure development proposals are only permitted if they would not cause unacceptable adverse effect in terms of noise, properly take account of the context or surroundings and do not have an adverse environmental impact on housing.

Conclusion

18. For the above reasons, I conclude that the development conflicts with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR