



Appeal Decision

Site visit made on 7 January 2025

by **Lewis Condé BSc, MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 January 2025

Appeal Ref: APP/N0410/W/24/3347271

Unit 5A, Alpha Controls, The Ridgeway, Iver, Buckinghamshire SL0 9HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Viridi against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref is PL/24/0713/PAPCR.
 - The development proposed is Change of use of Class E unit to 2 dwellings (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the original planning application form, however, I have amended it to remove a reference to being an application for prior approval under the relevant provision of the General Permitted Development Order as this is not an act of development.
3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. In respect of matters of pertinence to this appeal scheme, there have been no fundamental changes to national policy. As such, comments have not been sought from the main parties on the implications of the revised Framework. Indeed, development plan policies and the Framework can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issue

4. The main issue is whether the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO), with particular regard to the following:
 - The impacts of noise from commercial premises on the intended occupiers of the development (Class MA 2.2(d)); and
 - The impact on intended occupiers of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses (Class MA 2.2(g)).

Reasons

5. The appeal site is located within an established industrial estate, alongside commercial and industrial premises including storage and distribution uses. The appeal building lies adjacent to two commercial vehicle repair garages/workshops, one of which it directly adjoins.
6. The proposal for residential dwellings would introduce noise sensitive development next to noise and vibration generating sources from the industrial estate, most notably the adjoining garage operations.
7. The appellant's external building fabric report¹ (herein referred to as the noise survey), indicates that monitored average ambient noise levels both in the daytime (07:00 – 23:00) and nighttime (23:00 – 07:00) exceed recommended acceptable internal noise levels for residential spaces². The noise survey further categorised the site's risk of adverse effects from noise as being low to medium risk.
8. A range of design recommendations for the proposed residential units, including in respect of wall linings, glazing specifications, and ventilation, are outlined within the noise survey as being sufficient to achieve recommended internal noise levels for the proposed development. However, the appellant has not provided any precise details of the noise mitigation measures that would be employed in the development, nor the level of internal noise mitigation that they would achieve.
9. Additionally, the appellant's noise survey is subject to several limitations. Firstly, in respect of the acoustic data, unattended noise monitoring was undertaken for only a two-day period, including a Sunday when nearby business premises are likely to have reduced operating hours. Meanwhile, attended external noise monitoring was undertaken for only a fifteen-minute period on site. No suitable justification has been provided as to why noise monitoring at the site was undertaken across such limited periods.
10. Vehicle repairs and maintenance can include a range of noisy activities, including the revving of engines, use of pneumatic/hydraulic tools and hammering. The omission of details on the specific types of activities that were being undertaken at neighbouring premises during the assessment period therefore fundamentally limits the findings of the noise survey.
11. The appellant has also provided no suitable justification as to why the submitted noise survey contains no assessment of uncertainty, as raised by the Council's Environmental Health Officer.
12. Given the above, I am not satisfied that the appellant's noise survey provides an accurate or reliable reflection of the site's existing noise environment. Nor would it be appropriate to grant planning permission subject to a condition requiring the approval of the detailed design of noise mitigation measures. As I cannot be certain that such a condition is capable of being discharged or ensuring that the proposed accommodation would provide suitable living conditions in respect of noise.

¹ Prepared by Clement Acoustics and includes a noise survey.

² Exceeded internal noise level guidelines under both BS 8233: 2014: 'Guidance on sound insulation and noise reduction for buildings and the World Health Organisation's *Guidelines for Community Noise*'.

13. Furthermore, although Paragraph W of Schedule 2, Part 3 of the GPDO does allow for conditions that are reasonable related to the subject matter of the prior approval, the matter of noise mitigation is in itself a condition of the development permitted by the GPDO. Indeed, it is a principle matter in dispute between the main parties, and goes to the heart of the main issues of this appeal. In these circumstances it would not be appropriate to require the submission of a further noise mitigation scheme as this would, in effect, reopen the prior approval process.
14. The appellant has also not provided any assessment of vibrations. Given the site's position in relation to adjacent commercial garage uses, there is a realistic prospect that vibrations from neighbouring operations could also result in any future occupiers of the proposed development being exposed to harmful living conditions.
15. Consequently, I consider that the living conditions of the intended future occupiers of the proposed development would be adversely impacted from noise from commercial premises. Additionally, the proposal is likely to result in unsuitable impacts on the intended occupiers of the development through the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses. The proposal therefore conflicts with conditions MA.2(2)(d) and (g) of Schedule 2, Part 3, Class MA of the GPDO.

Other Matters

16. Prior approval under Class MA of the GPDO has previously been granted for the conversion of No. 28 The Ridgeway (Olympia House) to residential dwellings and the development has subsequently been complete and occupied. Despite its location nearby, the precise contextual relationship between that development scheme and adjacent commercial uses differs somewhat to the appeal site. Furthermore, from the evidence before me, the introduction of residential development at Olympia House has led to conflicts arising with the existing commercial uses on the Industrial Estate, as their operations have detrimentally impacted upon the living conditions of residents. This has resulted in existing businesses on the industrial estate having to make significant changes to their operations.
17. As such, I do not consider that the previous approval at Olympia House to offer suitable justification for the appeal proposal. Particularly considering paragraph 200 of the Framework, which seeks to ensure that new development can effectively integrate with existing businesses and that existing businesses and facilities should not have unreasonable restrictions placed on them because of development permitted after they were established.

Conclusion

18. For the reasons set out above, the appeal is dismissed.

Lewis Condé

INSPECTOR