



Appeal Decision

Site visit made on 1 May 2025

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2025

Appeal Ref: APP/E2001/W/25/3361073

JJ's Smart Repairs, Unit 7, Station Mills, Station Road, Cottingham HU16 4LL

- 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 Mr John Allen of JJ's Smart Repairs Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref is 24/02990/PLF.
 - The development is retrospective application for extraction flue.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made retrospectively. During my site visit, I noted that the development had been carried out and appeared to be in accordance with the plans submitted with the application. I have dealt with the appeal on this basis.
3. During the appeal, the East Riding Local Plan Strategy Document Update 2025 (ERLP SDU) was adopted by the Council. Both parties were provided with the opportunity to comment on the implications of this during the appeal. I have taken any comments received on this matter into account during my assessment of the development.

Main Issue

4. The main issue is the effect of the development on the living conditions of nearby residents and public footpath users, with particular reference to noise, odour and fumes.

Reasons

5. The appeal site is within an industrial complex located on Station Road. This industrial estate is made up of several different buildings which contain a number of businesses. These include a building materials supplier, a plant hire operation and various car and automotive repair shops. To the rear of the site is a public footpath which runs alongside Creyke Beck, and beyond this, the terraced properties of Creyke Close. No. 34 and 36 Creyke Close are the closest residential properties to the appeal site. The railway line which services Cottingham Station is also located to the east of the appeal site. During my site visit, the extraction flue and the equipment which it services were not in operation.
6. I firstly turn to the matter of odour and fumes. This flue is located approximately 5 metres above the public footpath and does not directly face onto residential properties. However, odours and fumes do not have a fixed direction of travel. As

such, when in operation, the fumes and odour which would be extracted by the flue would be negatively experienced and at the detriment to the users of the public footpath below it and the neighbouring occupants of No. 34 and 36 Creyke Close. This is due to the close relationship between this public footpath, No. 34 and 36 Creyke Close and the position of the flue in the general direction towards these receptors.

7. The appellant contends that the development and the associated processes involved utilise a water-based paint system and an air filtration process. However, no convincing evidence has been provided to demonstrate how these systems and processes do not create odours and fumes which would have a negative effect on these receptors when the associated apparatus is in use.
8. I now turn to the matter of noise. The application is absent of convincing evidence with regards to the level of noise which would be produced or any noise mitigation measures which would be employed. This extraction flue and its opening is significant in size. It would therefore not be unreasonable to assume that this equipment would create a noticeable sound when in use. It follows that the noise which would be expected to be produced by this equipment would be amplified by the extraction flue under consideration towards the adjacent public footpath and Creyke Close. This would be intrusive to the users of the public footpath and the occupants of No. 34 and 36 Creyke Close.
9. I am however cognisant that the appeal site and the public and private receptors which surround it are in an area where noise is not absent. The appeal site is located amongst car workshops, repair centres, a plant hire yard and a sizeable building materials supplier, amongst others. A railway line which services Cottingham is also located immediately to the east of the site. Collectively, these businesses all generate noise throughout the working day, and this is noticeable from the public footpath along the Creyke Beck and Creyke Close to the rear of the appeal site. The equipment used in connection with this flue is also stored within Unit 7 and therefore, this will assist somewhat in reducing the noise which will be produced.
10. The Council have also provided a list of suggested conditions, one of which suggests the operation times of the constructed flue. This would allow for the flue to be utilised for a long period of the day close to nearby receptors. As such, I do not find that the time restrictions in this suggested condition are immediately appropriate due to the start and finish times suggested on Monday through to Friday.
11. However, when considered against the backdrop of noise made from the wider industrial estate, a similar condition could be employed to restrict the use of the flue to more appropriate times of the day. Therefore, subject to the use of an appropriately worded condition, the development would not have an unacceptable effect on the living conditions of neighbouring occupants and footpath users, with specific regard to noise.
12. The appellant notes that the business of the appeal site provides a high quality and environmentally friendly service to the local community. In doing so, this prevents vehicles from being recycled and in the hands of their owners. However, whilst this is a positive, this consideration is of limited weight. It does not overcome my concern with specific regard to odour and fumes.

13. To conclude, the development conflicts with Policies ENV1 and ENV6 of the ERLP SDU, with specific regard to odour and fumes. Subject to an appropriately worded planning condition, I do not however find that the development conflicts with these policies with specific regard to noise. These policies require developments to have regard to the amenity of existing properties and to mitigate and manage aerial pollution to ensure that development does not result in unacceptable consequences to the wider community.

Conclusion

14. In conclusion, the development conflicts with the development plan and there are no other considerations that outweigh this conflict. Therefore, the appeal should be dismissed.

J Smith

INSPECTOR