



Appeal Decision

Hearing held on 21 October 2025

Site visit made on 21 October 2025

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2025

Appeal Ref: APP/Z3635/W/24/3350632

The Paddocks, Land rear of 237-245 Hithermoor Road, Stanwell Moor TW19 6AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Gavin Gates against the decision of Spelthorne Borough Council.
 - The application Ref is 23/01264/RVC.
 - The application sought planning permission for the material change of use of hay-barn and feed room, including day-room and toilet facilities, to a single dwelling house and retention of 3 loose box, stable feed store and tack room as shown on site location plan and plan no. 15_753C-003 without complying with conditions attached to planning permission Ref 19/01372/FUL, dated 9 December 2019.
 - The conditions in dispute are Nos 2 and 3 which state:
 2. That this permission be for a limited period of 3 years only, expiring on 9 December 2022 when the use hereby permitted shall be entirely discontinued with the removal of the kitchen and bathroom facilities from the site and conversion of the building back to its former stable use.
 3. That this permission shall be personal to Gavin Gates and his immediate family and shall not enure for the benefit of the land nor any other person or persons for the time being having an interest therein.
 - The reason given for both conditions is: In the interest of the amenity of the occupants in terms of noise.
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Decision

1. The appeal is allowed and planning permission is granted for the material change of use of hay-barn and feed room, including dayroom and toilet facilities, to a single dwelling house and retention of 3 loose box, stable feed store and tack room as shown on site location plan and plan no. 15_753C-003 at The Paddocks, Land rear of 237-245 Hithermoor Road, Stanwell Moor TW19 6AZ in accordance with the terms of the application, Ref 23/01264/RVC, without complying with the conditions attached to planning permission ref 19/01372/FUL, subject to the following condition:
 - 1) Unless within 3 months of the date of this decision a scheme for the provision of an external acoustic canopy is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 4 months of the local planning authority's approval, the use of the site for residential purposes shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 11 months of the date of this decision, the use of the site for residential purposes shall

cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained as such.

In the event of an appeal against or a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that appeal or legal challenge has been finally determined.

Main Issues

2. The main issues are whether conditions (2) and (3) of planning permission ref. 19/01372/FUL ("the Previous Permission") are reasonable and necessary with particular regard to

- (a) whether the site provides acceptable living conditions for its occupants in respect of aircraft noise; and

- (b) whether there are any other material considerations that might otherwise indicate that permission should be granted.

Reasons

3. The site is close to Heathrow airport. Modelling shows part of the site to be within the 66dB sound contour for averaged aircraft noise. The Spelthorne Core Strategy and Policies Development Plan Document 2009 ("CS") at Policy EN11(c) sets out a clear presumption that permission for additional residential development will be refused where this sound level is exceeded.
4. The mapped contours may well have been relied upon for decision making purposes by the Council and Inspectors in the past. However, the Council confirmed at the Hearing that they are, at best, a very good baseline providing a guide to areas that are likely to be exposed to high levels of aircraft noise. They should not be relied upon to produce accurate information about sound levels at individual sites, and site specific assessments should be undertaken on a case by case basis.
5. The appellant has undertaken several, undisputed, sound surveys and noise impact assessments ("NIAs") at the appeal site. The most recent of these, in 2023, indicated that average daytime sound levels at the appeal site were 65.2dB. There were a comparable number of aircraft movements during the survey to the 2024 summer average, when the Council accepts that the airport was operating at normal levels. While there remains uncertainty over future aircraft movements, with the potential introduction of runway alternations in easterly as well as westerly operation, the parties agreed at the Hearing that this was not predicted to significantly alter the noise environment.
6. I am, therefore, satisfied that the recorded levels are a reliable indication of the sound environment at the site. They indicate that there would be no conflict with Policy EN11(c). Accordingly, the policy does not indicate that permission should be withheld, provided that suitable internal and external living conditions can be provided.

7. The Council and appellant's representatives were certain that, to provide acceptable living conditions, some external space is required where noise levels are below 55dB. That can be achieved through the erection of an acoustic canopy, large enough to sit and dine under, such as a veranda. This solution would not protect the whole garden from excessive noise, but would provide choice for the occupiers. I find that it would provide an acceptable outdoor environment. The Council confirmed at the Hearing that such a canopy is highly likely to be permissible without the express grant of planning permission, so imposing a condition to require one would not be unreasonable.
8. The 2023 NIA indicates that sound levels inside the dwelling were within acceptable guidelines. However, the survey informing this was undertaken with the windows shut. While trickle vents were open, providing adequate ventilation, there is no evidence before me that the dwelling can be comfortably occupied throughout the year with windows shut.
9. The appellant has undertaken calculations indicating that the building's design means that internal sound levels are significantly below relevant guidelines, even with the windows open. However, this produced results that the dwelling would be quieter with windows open than the measured results with the windows closed. Even though the measured survey was carried out with trickle vents open, producing the effect of a small open window, it is wholly unclear how opening the windows further would produce conditions that were quieter still. Thus, when compared to the measured figures, I find the calculated internal levels with windows open to be unreliable.
10. This leads to uncertainty as to whether acceptable sound levels can be achieved within the dwelling when it is necessary to open windows for cooling. It has not been shown that this can be overcome with mitigation and, therefore, ongoing occupation of the dwelling is contrary to the overarching aims of CS Policy EN11 which seek to ensure that the adverse impact of noise is adequately mitigated.
11. Nevertheless, the Council cannot demonstrate a 5 year supply of deliverable housing land. In this scenario, the National Planning Policy Framework ("the Framework") indicates that the policies most important for determining the application should be deemed out of date and permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies of the Framework, taken as a whole. Particular regard should be given to a number of specifically listed policies, but those are of little relevance to this decision.
12. The proposal would add a dwelling to the housing supply. While only a small contribution, it would provide a home for a family that would otherwise be, effectively, made homeless, avoiding adding further, albeit small, pressure to the existing housing stock. In this context, the contribution to the housing supply is a benefit. The adverse impacts relate to potential effects on the health and quality of life of the occupiers of the site. The Framework indicates that planning decisions should avoid noise giving rise to significant adverse impacts in that regard.
13. When windows are shut, the dwelling does provide appropriate internal living conditions and can provide acceptable external ones. The night-time levels are usually appreciably below the guidance levels. There would be times when windows needed to be open, but most of the windows are on the front, being the

opposite side of the building to the majority of aircraft movements. The required covered outdoor area, if erected as indicated in past proposals, would likely provide further acoustic shelter to those windows. That is all likely to serve to minimise adverse effects when windows are open, even if not to the extent suggested in the appellant's evidence. Overall, given that living conditions have been demonstrated to be acceptable at all other times, I find that significant adverse effects on health and quality of life would be avoided.

14. That was not the case at a nearby site at Minerva Close where it was found that unacceptable adverse effects would arise. However, that site is closer to the end of the runway, directly under the flight path of most aircraft departing the southern runway in a westerly direction, and the proposal was for a mobile home. That situation is not directly comparable to this case.
15. In 2017, an Inspector considering an appeal at this site found that the adverse impacts of granting permission did outweigh the benefits. However, the development being considered at that time was also for a mobile home that the Council accepts would have a worse acoustic performance than the current dwelling. The noise environment has also improved since then due to alterations in airport operations and the introduction of quieter aircraft. There is no particular reason, therefore, for the same decision to be reached in the present case.
16. The benefits of the proposal are small, and smaller than similar benefits at a nearby site at Fir Tree Place where they were deemed to be of limited weight. However, for the reasons given, the adverse impacts here are also small and do not, therefore, significantly and demonstrably outweigh the benefits of granting permission when considered against the policies of the Framework taken as a whole. Accordingly, the proposal benefits from the presumption in favour of sustainable development set out at Framework paragraph 11. As a statement of Government policy, this is a material consideration of substantial weight.
17. While I have found that the current proposal is in conflict with CS Policy EN11 which, given the particular sensitivities of this part of the Borough, seeks to minimise all adverse impacts from noise, for the reasons I have described, the actual harm is limited. Material considerations, therefore, indicate that a decision should be taken otherwise than in accordance with the development plan. Accordingly, conditions (2) and (3) of the Previous Permission are no longer reasonable or necessary. Planning permission can be granted without compliance with them.
18. There were three other non-disputed conditions imposed upon the Previous Permission. It was agreed at the Hearing that none of these continue to be necessary, so I have not imposed them either. However, for the reasons given above, it is necessary to impose a condition requiring the erection of an acoustic canopy outside the dwelling.
19. The appeal is allowed.

M Bale

INSPECTOR

Appearances

FOR THE APPELLANT:

Matthew Green, Green Planning Studio

Tim Green MSC MPS, Acoustic Consultant

Gavin Gates

FOR THE LOCAL PLANNING AUTHORITY:

Kelly Walker BSc MTP, Principal Planning Officer (Development Management)

Martin Horn, Senior Planning Officer (Strategic Planning)

Joanna Shum BSc, Senior Environmental Health Officer

Documents submitted at the Hearing

HD1 Aerial Photograph – 2019 & 2024 Standard Contours (a)

HD2 Aerial Photograph – 2023 and 2024 Standard Contours

HD3 Aerial Photograph – Monitoring Positions 2007-2024

HD4 Signed witness statement of Gavin Gates¹

¹ Being a signed copy of a version already submitted with the appeal documents