



Appeal Decisions

Site visit made on 5 November 2025

by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2025

Appeal A Ref: APP/C1570/C/24/3352073

Appeal B Ref: APP/C1570/C/24/3352074

Maidens Farm, High Easter, CHELMSFORD, CM3 1HU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Forest Contracts Ltd and Appeal B by Mr C Matthews against an enforcement notice issued by Uttlesford District Council.
 - The notice was issued on 12 August 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission the material change of use of the building identified on the attached plan to an activity which falls within the B2 use class.
 - The requirements of the notice are to cease the use of the site for a B2 use activity.
 - The period for compliance with the requirement is within 3 months of the date the notice takes effect.
 - The appeals are proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended).
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Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Two appellants were named on the appeal form. In such circumstances two appeals are made and each is given its own reference number. I have referred to them as Appeal A and B, as set out in the banner heading above. Both appeals are proceeding on ground (b) alone.
3. I have also determined related appeals made against the Council's decision to serve an enforcement notice relating to the erection of two side extensions, the installation of a biomass boiler and associated structures¹. Whilst the matters are clearly related, I have issued a separate decision letter in respect of those appeals given that they relate to a separate notice.

The Appeals on Ground (b)

4. An appeal on ground (b) is made on the basis that the matters alleged in the notice have not occurred as a matter of fact. There is no dispute that the building and land in question are being used for the purposes of manufacturing and making furniture, primarily in connection with the hotel industry. However, the appellant disputes that the use falls within Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO) and, in that sense, contends that the use alleged in the enforcement notice has not occurred.

¹ Reference: APP/C1570/C/24/3352069 & 70

5. Planning permission was granted in 2019 for the material change of use of the building in question from an agricultural use to a light industrial use within Class B1(c) of the UCO² (the 2019 permission). Following changes to the UCO in 2020, the B1(c) Use Class was subsumed within new Class E(g)(iii). However, the change did not affect the definition or the distinction with Class B2 which relates to general industrial uses.
6. Class B1(c) and Class E(g)(iii) refer to for any industrial process, being a use which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. Class B2 relates to the carrying on of any industrial process not falling within that definition. The essence of the appeal is that the appellant contends that the use falls within Class B1(c) and that it complies with the terms of the 2019 permission.
7. There are elements of an appeal under ground (c) in that respect. However, given the specific way the enforcement notice is worded in relation to the Use Class as opposed to the specific nature of the operations that are taking place, I see no reason not to address the arguments put forward under ground (b). In either case, the main issue in question is whether the use amounts to a general industrial or light industrial use.
8. The term “carried on in any residential area” should be taken as a hypothetical reference. In other words the question is not whether the use causes detriment to amenity in the particular location of the site in question but whether it could be carried on in any residential area without detriment to amenity³. For example, a general industrial use generating significant noise, smell or other emissions would not become a light industrial use simply because it was situated in an isolated location away from any residential properties.
9. In the present case, I have been provided with acoustic assessments and odour assessments which seek to assess the effect of the development on the closest residential receptors. For example, the introduction to the Noise Assessment prepared by Sharps Redmore, dated 09 April 2024, states that they “*have been appointed to review the sound levels likely to arise from the operations during the proposed hours and what the likelihood of impact is at the nearest residential property at approximately 350m to the north at the Green Street junction.*”
10. Similarly, the Odour Assessment, dated 09 May 2024, prepared by Redmore Environmental, assesses the likely impact on the surrounding area, taking account of sensitive receptors and factors including prevailing wind direction. Whilst those assessments provide useful background information they are specific to the site. The assessment I need to make is not the same as would be the case if I were determining a planning application. It is not for me to assess whether the impact on those nearby residential properties is acceptable or to reach any conclusion on whether planning permission should be granted. It is simply to determine if the use is one that could operate in *any residential area* without detriment to amenity. It is important to draw that distinction.
11. The appeal site is used for making furniture, primarily for the hotel industry. I was shown around the unit at my accompanied site visit. Sheet material is delivered to one end and goes through various processes involving the use of precision sawing

² LPA reference: UTT/19/1783/FUL

³ W.T. Lamb Properties Ltd v SSE [1983] JPL 303

equipment, drilling/ dowelling machines, sanding machines, machines to apply edging to the furniture and the like. There are separate assembly and spraying areas, the latter with its own extraction system. Off-cuts of timber are shredded and fed onto a conveyor belt which feeds the biomass boiler, which has an external flue. Heat from that process is fed back into the building.

12. Internally, the use of cutting and drilling machines creates a very noisy environment. Those working were wearing ear defenders and it was difficult to hold a conversation without raised voices due to the high background level of noise. I appreciate that internal noise is not necessarily indicative that the process would cause detriment to amenity externally but the processes involved clearly generate substantial noise.
13. The appellants contend that the use was operational late in 2019, with the Biomass Boiler being completed in June 2020. I have addressed the timing of events in my associated decisions relating to operational development. Whatever, the precise timings, complaints to the Council from local residents relating to noise and odour from the use began to arise in December 2020.
14. In March 2021, a "Preliminary Analysis of Noise Emissions", was prepared by MAS Environmental and submitted to the Council on behalf of neighbouring residents. That analysis refers to tonal noise, low frequency noise and noise with a modulating character "like a chugging train". Rating levels significantly above recorded background levels adjacent to the residential property at Sworders Farm were identified, being indicative of a significant adverse impact under BS4142 "subject to context"⁴.
15. Subsequently, the appellants commissioned an Acoustic Impact Assessment (AIA), produced by Acoustical Control Engineers and Consultants, dated 19 July 2021. Numerous items of plant were identified as creating noise including shredders, extraction equipment, the biomass plant and air compressors. It was also noted that saws and nail guns would contribute significantly to the external noise environment when doors were left open. The AIA concluded that there was likely to be a significant adverse impact at Sworders Farm during the day on account of raised noise from the biomass installation and intermittent sound from the shredder and circular saw. Whilst there may have been differences in methodology between that AIA and the MAS Environmental analysis, both concluded that the impact would be significant⁵.
16. Those conclusions related to a residential property approximately 300-350 metres from the appeal site. The measurements taken in the AIA at points 10m and 100m from the site show significant levels of noise, likely to be substantially over background levels in a relatively quiet rural location⁶. In a notional residential area it is not unreasonable to assume that residential properties could be as close as 10m from the site, roughly the equivalent of being on the opposite side of a street. If the impact was significant at a distance of 300m, it goes without saying that it would have been even greater if dwellings were in such close proximity.
17. Consequently, even by the appellant's own noise assessment, the use was not operating in a manner that could take place in any residential area without

⁴ Paras 1.15 & 1.16 of the MAS Environmental Analysis, dated 17 March 2021

⁵ Para 9.9 of the AIA, Acoustical Control Engineers & Consultants, 19 July 2021

⁶ As summarised in Table 7.1 of the AIA

detriment to amenity and was not within Use Class B1(c) at that time. The AIA put forward a number of mitigation measures including a timber screen for the biomass plant and extraction systems, attenuators on the extraction systems, new doors and a requirement to keep doors closed when noisy activity is taking place in the building.

18. By that point in time the material change of use of the site had already occurred. The use was clearly having a detrimental effect on amenity and fell within Use Class B2. Proposing mitigation after the event would not alter the fact that the MCU had already happened.
19. In any event, it is not entirely clear whether those measures have been implemented in full. The external screen is definitely in place and subsequent noise assessments refer to working practices whereby windows and doors remain closed when machinery is operational but I have not been provided with any control mechanism which dictates how that works in practice. For example, when timber deliveries take place, what controls are in place to stop machinery from working?
20. Similarly, the Inspector in the previous appeal relating to the retrospective application, for the erection of two side extensions and the installation of the biomass boiler was not clear that the mitigation measures had been carried out⁷. Nor was he satisfied that sufficient information had been submitted to conclude that the effect on living conditions was acceptable. Thus, at the time that appeal was determined in March 2024, the findings of the Inspector would indicate that the use still fell within Use Class B2. The enforcement notice in respect of the present appeal was issued not long afterwards in August 2024.
21. Prior to that, in April 2024, a Noise Assessment was produced on behalf of the appellant by Sharps Redmore⁸. That identifies an “indicative reverberant sound level” of 79 dB L_{Aeq t} for the internal factory shop floor with all machines running. Taking account of the likely sound insulation afforded by the fabric of the building the assessment suggests that a “free field value” of 48dBA can be reasonably assumed immediately outside the fabric of the building.
22. A noise reading for the biomass flue, measured at 1m from the flue was a sound pressure level (SPL) of 76. Extrapolating that figure with a distance attenuation of 51db, the assessment suggests that would result in a level of 28dBA at the closest receptor. However, that receptor is 350m away. Such distances would not be typical of “any” residential area where residential properties could be expected to be directly adjacent or on the opposite side of a street. In such a case the distance attenuation would be substantially less.
23. The Assessment does state that “subjectively, even at 60m no noise was audible from the internal operations at the site. All windows and doors are closed when the workshop is in use”. That would appear to relate to the internal operations and not the external flue/ biomass boiler or other extraction equipment. It is not readily apparent why 60m was considered to be a relevant distance. No assessment of the likely effects at closer proximity, either from the biomass installation or the operations within the unit has been presented.

⁷ APP/C1570/W/23/3322137, paragraph 9

⁸ Dated 09 April 2024

24. I appreciate that acoustic consultants acting for neighbouring residents do not necessarily agree with the methodology or findings of the appellant's 2024 Noise Assessment, for example, in relation to estimated background noise levels or noise transmission analysis between the site and receptor. Some of those reservations may well be valid. However, even taking the figures at face value as a best-case scenario, the conclusions do not demonstrate that the noise would have no detriment to amenity in *any* residential area. On the contrary, the external measurements/ estimates demonstrate that noise is still emitted from the unit and is not contained within the fabric of the structure. If situated in a typical residential neighbourhood, with low background noise, with dwellings closely adjacent, as opposed to 300-350m away, it seems likely that the use would cause detriment to amenity.
25. Moreover, noise is not the only issue. There have been ongoing complaints from neighbouring residents relating to odour emanating from the site and odours, including solvent, varnish or paint based smells have been detected in odour assessments prepared on behalf of a nearby resident, by Environmental Health Officers and also in Odour Assessments prepared on behalf of the appellant. The various assessments vary in their conclusions as to the severity of the impacts. As acknowledged in the Redmore Environmental Assessment, dated May 2024 (the May 2024 Assessment), "the magnitude of odour impact depends on a number of factors and the potential for complaints varies due to the subjective nature of odour perception⁹".
26. There is no satisfactory mechanical method of measuring/ quantifying odour exposure and all of the reports utilise the *Guidance on the Assessment of Odour for Planning* produced by the Institute of Air Quality Management (IAQM) as a way of bringing a structured approach to the assessment of what is a subjective matter. The FIDOL acronym is used as a reminder of the factors that can influence the degree of odour pollution based on **F**requency of detection, **I**ntensity, **D**uration, **O** odour unpleasantness and **L**ocation.
27. The Odour Assessment produced in September 2021 by Air Pollution Services, on behalf of a local resident identified various odours, including burnt wood dust, solvents, paint smells and glue. The intensity of those smells ranged from weak through to very strong. Overall, the report concluded that the overall odour effects within the residential area in the vicinity were considered to be "slight to moderate adverse".
28. The appellant contends that some of the odours referred to in the 2021 report, particularly smoke, arose on days when the unit was not operating and also notes that the company has since ceased using solvent based sprays in favour of water based products. The May 2024 Assessment conducted further field surveys and sniff tests. Odours detected in those surveys included varnish, lacquer, wood burning and chemicals, amongst others. The overall effects were considered to be slightly adverse at one receptor and negligible at two others, such that the overall conclusion was that the effects were not significant.
29. The conclusions of the various assessments are based on subjective judgements, for example on the intensity of an odour at a given source or whether the odour is unpleasant or neutral for example. I appreciate that those conducting the surveys

⁹ Paragraph 2.1

are trained in the methodology but it is unlikely to be an exact science. As noted within the May 2024 Assessment, the perception of odour will vary between individuals. For example, the smell of wood and lacquer at one survey location was identified as “pleasant” within the May 2024 Assessment, “Lacquer, Paint and Wood” as neutral in another.

30. Whether a neighbouring resident would describe such odours in that way seems open to question. In addition, all of the assessments are based upon the specifics of the location in question. In particular, local weather conditions are assessed, as is the effectiveness of the “pathway” between the source of the odour and the receptor. If those factors were different, for example, if the unit was located in a residential area with buildings closely adjacent, the weather conditions and the pathway between odour and receptor could be markedly different. That would be likely to have knock on effects for the way the odours emanating would be experienced, how they would disperse and how the level of intensity would be felt.
31. What is clear is that odour is created through the processes within the building and that is noticeable externally. To fall within Use Class B1(c) a use must be able to operate without detriment to amenity. Even a small or modest impact would constitute a detriment. Having regard to the findings of the site-specific odour assessments and the comments from neighbouring residents and the Council’s Environmental Health Officers I am not satisfied that the odour emissions would be without detriment to amenity in any residential area. Rather, it appears to me that the fundamental processes involved result in emissions that would be likely to have an adverse effect, if located in a notional residential area with dwellings in close proximity.
32. It is notable in respect of noise and odour that residents began to submit complaints to the Council’s Environmental Health team from 2020 onwards shortly after the use began. It is important to reiterate that I am not making a judgement as to whether the degree of any harm would be sufficient to justify a refusal of planning permission. That is a different balance and it is not for me to reach any conclusion in that regard.
33. However, the fact that residents were aware of the activities at the site and had cause to raise objections with the Council does indicate that there has been some detriment to amenity. If there was no impact it is not clear why residents would go to the time and expense of submitting objections and commissioning reports by professional consultants, no doubt at significant expense. The various professionally compiled assessments and observations from the Council’s Environmental Health Officers support the conclusion that noise and odour is emitted from the site, even if the conclusions on the severity of impact on nearby receptors may vary. None of the reports presented indicate that the use could be carried on in *any* residential area without detriment to amenity.
34. On the balance of all of the information presented and what I witnessed on my site visit, the operation is an archetypal general industrial activity with associated side effects and emissions. Whilst some mitigation measures have been introduced since the unit became operational that has not altered the fact that the use falls squarely within Class B2 of the UCO and not within Class B1(c)/ Class E(g)(iii).

35. I have had regard to the appeal decision provided by the appellant¹⁰. However, the facts of that case are notably different, including the location and the use, which related to servicing, repairs and finishing to elite racing cars, along with some manufacturing of exhibition props for television sets. It is far from clear that the levels of noise or emissions are comparable or that the equipment used and extraction systems were similar. Accordingly, that case does not lead me to alter my decision.
36. On the balance of probabilities, the operations fell within Use Class B2 from the outset and remained so at the time the enforcement notice was served. It follows that the material change of use alleged in the enforcement notice has occurred as a matter of fact. Accordingly, the appeals on ground (b) must fail.

Conclusion

37. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice accordingly.

Chris Preston

INSPECTOR

¹⁰ Appendix PLG10