



Appeal Decision

Site visit made on 19 February 2019

by **Chris Forrett BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 March 2019

Appeal Ref: APP/V0510/W/18/3195701

Land opposite 139 The Butts, Soham, Cambridgeshire CB7 5AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Robert Negus against the decision of East Cambridgeshire District Council.
 - The application Ref 17/01479/FUL, dated 12 April 2017, was refused by notice dated 5 October 2017.
 - The development proposed is two eco log cabins.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Whilst the description of the development does not explicitly refer to the use of the proposed eco log cabins, the supporting information clearly identifies that their intended use is as residential dwellings.
3. Since the determination of the appeal application, the National Planning Policy Framework published in 2012 (the 2012 Framework) has been replaced, with the latest version being published in February 2019 (the 2019 Framework). Paragraph 212 of the 2019 Framework outlines that the policies contained within it are material considerations which should be taken into account in dealing with applications from the day of its publication.
4. In addition to the above, the emerging East Cambridgeshire Local Plan was formally withdrawn by the Council on the 21 February 2019. I have therefore given this no weight in my decision.
5. I have therefore determined the appeal with the above in mind.

Main Issues

6. The main issues are whether the proposal would comply with the spatial strategy of the East Cambridgeshire Local Plan April 2015 (LP) in terms of the location of the development, and whether the log cabins would provide suitable living conditions for their future occupiers with particular regard to noise.

Reasons

Location

7. The appeal site is located at the western end of The Butts, which runs from the built up area of Soham and ends at the railway line to the west of the appeal site. The Butts has no segregated footway/pavement from vehicular traffic nor does it have street lighting. Given the sporadic nature of development along The Butts the area has a rural character and feel to it.
8. The site itself currently has a few small buildings close to The Butts, a mobile home which appears to be used for storage purposes together with two recently constructed wooden buildings broadly located where one of the proposed garages would be located.
9. The Appellant has stated that the appeal site is around one third of a mile away from the development boundary of Soham, whilst the Council indicate that the nearest facilities and services within Soham are around 1.1 miles away.
10. It is common ground between the main parties that the site is located outside of the defined development framework and therefore, in planning policy terms, the site is located in the countryside.
11. Paragraphs 78 and 79 of the 2019 Framework seek to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities. It also seeks to avoid the development of isolated homes in the countryside unless one or more specified circumstances are satisfied, one of which includes the design of such housing being of exceptional quality. Notwithstanding that, in the context of paragraph 79 of the 2019 Framework, the site cannot be considered to be isolated owing to the proximity of 139 The Butts, and the recently constructed dwelling at land east of 139 The Butts¹.
12. However, the nature of The Butts with no segregated pedestrian route together with the overall distance to the services within Soham, leads me to the view that walking or cycling would not be a particularly attractive option. Given this, the future occupiers of the development would invariably use the private motor vehicle for such journeys which is the least sustainable mode of transport.
13. In coming to that view I acknowledge that within Soham there are good public transport links, which provide an alternative mode of transport to the car. Whilst this is clearly a significant factor in the sustainability credentials of the location of the village, it does not outweigh the harm I have found in relation to the sites distance to such services and facilities.
14. I also acknowledge that the appeal site is only around 68 metres further away from the built up area of Soham than the recently constructed dwelling at land east of No 139. However, from the evidence before me, a significant factor in the granting of that permission² by the Council was that it was for a contemporary dwelling constructed to an exceptionally high standard in relation to energy efficiency and to a design which is both innovative for the area and sensitive to its countryside setting. It would appear that the Council considered that these factors amounted to the special circumstances which

¹ Planning permission reference 15/01313/OUT

² Reference 15/01313/OUT

justified a new dwelling at that location. However, I have already found that the development would not be an isolated dwelling in the countryside when considered against the provisions of paragraph 79 of the 2019 Framework. Therefore, I give this factor little weight.

15. For the above reasons the proposal would be in conflict with the spatial strategy for East Cambridgeshire in that the occupiers of the development would be heavily reliant on the private motor vehicle. The development would therefore be contrary to Policy COM7 of the LP which amongst other matters seek to direct new development to the most sustainable locations, reduce the need to travel (particularly by car) and have regard to the need to protect the countryside.

Living conditions

16. The appeal site is located adjacent to a railway line which is the dominant source of noise in the area. The appeal submission contains a noise assessment including mitigation measures. The Council have confirmed that the mitigation measures proposed provide for a technical solution so that the internal and external areas would not suffer from excessive noise levels and I have no reason to disagree with that view.
17. However, in order to achieve acceptable noise mitigation from passing trains, a 3 metre high acoustic fence is proposed along the railway boundary and to each side of the development, together with an increased specification of window glazing with acoustic ventilation. Furthermore, to achieve the recommended internal noise standards, it is acknowledged that the proposed windows would have to remain closed.
18. Notwithstanding the technical solution put forward, I share the Council's concerns that the future occupiers of the development would be unable to open the windows facing the railway line without being subjected to excessive noise especially during night-time hours.
19. To my mind the inability to open such windows, without suffering from the effects of excessive noise, would lead to an unsatisfactory internal living environment for the future occupiers of the development.
20. In addition to the above, the acoustic fence would be a significant feature around the log cabins and would give rise to some harm to the rural character of the area. It would also be a significant feature in the front garden areas of each property.
21. For the above reasons the proposal would not provide suitable living conditions for the future occupants of the development contrary to Policy ENV9 of the LP which amongst other matters seeks to ensure that the future occupiers of new development are not adversely affected by an existing noise source.

Planning balance

22. It is common ground between the parties that the Council cannot demonstrate a deliverable 5 year supply of housing. The 2019 Framework indicates that planning decisions should apply a presumption of sustainable development in such circumstances. For decision taking, where Development Plan policies

which are the most important for determining the application are out of date³, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the 2019 Framework taken as a whole. This presumption in favour of sustainable development is also outlined in Policy GROWTH 5 of the LP.

23. In this case, I have found that the development would not be in a sustainable location and would not provide a satisfactory living environment for its future occupiers. These factors weigh heavily against the proposal.
24. The development would provide some minor economic benefits to the rural area through the construction process, and in generating further economic activity through increased population in the rural area. In respect of the other aspects of the social dimension, the proposal would bring some minor social benefits in that it would provide much needed additional housing.
25. I also have had regard to the other factors put forward by the Appellant including the brownfield nature of the site, low levels of income in the area and higher deprivation levels, together with proposals to enhance wildlife through the planting of new trees and leaving parts of the site wild and uncultivated. All of these matters also weigh in favour of the development, although none of these factors, in isolation or cumulatively, are significant factors.
26. In addition to the above, I have taken into account that the design of the proposal is locally distinctive as no log cabins exist in the area. However, I consider that this is a neutral factor in the overall planning balance.
27. From the evidence before me, it is unclear what the shortfall in the Council's five year housing land supply is. Notwithstanding this, the proposal is unlikely to have any significant effect in reducing the deficit.
28. Against this background, to my mind, the harm identified (including the conflict with the LP) significantly and demonstrably outweighs the minor benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

29. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

³ Footnote 7 includes situations where the local planning authority cannot demonstrate five year supply of deliverable housing sites.



Appeal Decision

Site visit made on 6 May 2021

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th May 2021

Appeal Ref: APP/V0510/W/20/3256802

Hanson Depot, 42 Station Road, Kennett, Cambridgeshire CB8 7QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Victoria Stanley Limited against the decision of East Cambridgeshire District Council.
 - The application Ref 19/00886/FUM, dated 21 June 2019, was refused by notice dated 6 February 2020.
 - The development proposed is 38 residential dwellings (40% affordable units) with associated access, open space and drainage, replacing the disused commercial yard. One commercial unit (B1 office) to be included within 38 units.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Following submission of the application, and prior to the Council making its decision, amended plans were submitted to the Council which show 36 dwellings instead of the 38 proposed in the application. There is no record before me of any agreement between the parties as to a changed description of the development, but I shall consider the proposal on the basis of the amended plans.

Main Issues

3. The main issues in the appeal are:
 - i) the effect of the development on the character and appearance of the area;
 - ii) the implications of the loss of the existing site for employment use;
 - iii) whether or not the development would provide acceptable living conditions for its occupiers in terms of noise disturbance; and
 - iv) whether or not the development would be acceptable in terms of flood risk and drainage.

Reasons

Character and Appearance

4. The appeal site includes a yard which was previously used for storage of aggregates and adjoining open land. The site is to the rear of frontage

- residential development along Station Road and other commercial buildings. It lies immediately south of the A14. To the east is a wooded area along the River Kennett.
5. While the yard area is within the development envelope as defined in the development plan, the remainder of the site is outside that envelope. Policy GROWTH 2 of the Local Plan¹ (LP) restricts the development that may take place outside the defined development envelopes. The proposal does not accord with that policy.
 6. When the Council made its decision, it could not demonstrate a 5 year supply of deliverable housing sites, however the situation has since altered. The two appeal decisions² in which the Inspector found that the Council could not demonstrate a 5 year supply have subsequently been quashed by the High Court. In a more recent appeal decision³ the Inspector found that the Council could demonstrate a 5 year supply.
 7. The Council's strategic policies are more than 5 years old and the local housing need should be calculated using the standard method. The Council's Addendum to its Five Year Land Supply Report (December 2020) reports that the Council achieved 87% of its Housing Delivery Test requirement. Because delivery is above 85% and the Council has not chosen to produce an annual position statement, a buffer of 5% is required to be applied. The Addendum demonstrates that the Council has 7.01 years housing land supply. This indicates that its policies are not out-of-date. No other evidence has been provided to show that the policies that are most important for determining the application are out-of-date.
 8. Kennett is a dispersed settlement, the main part of that settlement being to the north of the A14. There is linear housing along the eastern side of Station Road which extends as far as the built up area of Kentford. The site forms part of an open area which separates the linear development along Station Road from the eastern part of Kentford. The river and the adjacent trees form a defining landscape feature to this area and contribute significantly to its attractiveness.
 9. The proposed development would occupy a significant proportion of this open area. It would be visible from public viewpoints such as from Bury Road as well as from surrounding properties, notwithstanding the trees which provide some screening in views from the east. The development would intrude into the attractive landscape setting to the surrounding built up areas. It would also reduce the degree of separation between the settlements that currently exists.
 10. The proposed acoustic bunding would be a necessary part of the development and would be viewed in this context. It would not be out of scale with the proposed housing and trees would be planted which would have the effect of softening its appearance. I do not find this aspect of the proposal to be individually harmful but nonetheless it would be visually intrusive in combination with the proposed housing development.

¹ East Cambridgeshire Local Plan (2015)

² APP/V0510/W/18/3213834 and APP/V0510/W/19/3227487

³ APP/V0510/W/20/3245551

11. Policy ENV1 of the LP requires proposals to demonstrate that they will protect, conserve and where possible enhance the settlement edge, space between settlements and their wider landscape setting. For the reasons given above, the proposal would not accord with these requirements. Neither would it accord with Policy ENV2 of the LP which requires development to enhance and complement local distinctiveness and to have regard to local context. For the reasons given, the proposed development would unacceptably harm the character and appearance of the area.

Employment

12. Policy EMP1(a) of the LP permits mixed-use development on sites last used for employment purposes where it can be demonstrated that continued use of the site for 100% employment purposes is no longer viable, taking into account the site's characteristics, quality of buildings and existing or potential market demand. Paragraph 5.2.2 of the LP states that, where viability is in question, applicants will be required to demonstrate that the site has been actively marketed for a continuous period of 12 months.
13. No evidence of any marketing of the site has been provided, but a report on likely market demand for commercial use of the site was prepared in October 2017. This records that there were a significant number of commercial properties for sale or to let within 5 miles of the site, and a significant number of existing employment sites within a 3 mile radius of the site. The report concluded that there is not likely to be any significant demand for commercial use of the site. This conclusion is based on the number of alternative properties available in the area, rather than any particular aspect of the site which might limit its commercial attractiveness. While the report indicates that viability in terms of commercial demand may be limited, it does not conclusively demonstrate that 100% employment use of the yard is not viable. Indeed, this has not been demonstrated through any marketing exercise.
14. Part (b) of Policy EMP1 allows mixed use redevelopment where there would be significant community benefits which outweigh the partial loss of employment uses. The application form states that the proposed B1 office unit would provide employment for 2 full-time and 1 part-time members of staff. The Design and Access Statement says that the B1 office would have capacity for approximately 6 to 10 employees, while the appellant's statement says that, based on the Government's 'Employment Density Guide' there would be capacity for 22.5 full-time equivalent employees.
15. Policy EMP1 requires provision of clear and robust evidence and the limited information that has been provided both in respect of viability and any employment benefit is somewhat inconclusive. It has not been conclusively demonstrated that the level of employment that would be likely to be provided in the B1 unit would be greater than that which would otherwise be provided by the existing site. On this basis I have doubt as to whether this would constitute a community benefit. Nonetheless, there would be community benefits from the provision of new housing including affordable housing. These benefits would be significant and would outweigh any partial loss of employment use. The proposal would accord with Policy EMP1 of the LP on this basis.

Noise

16. It is proposed to provide an acoustic bund and fence along the northern boundary of the site in order to mitigate noise impact from traffic on the A14. There is no dispute between the parties that external noise levels within gardens and internal noise levels in living rooms would be within acceptable limits.
17. The nationally applied standard for internal noise levels in dwellings is BS8233:2014⁴. This states a standard of 30 dB LAeq 8 hour for bedrooms. The Council aims to ensure that external facades containing bedroom windows do not exceed 45 dB LAeq 8 hour but is prepared to relax this to 50 dB LAeq 8 hour if the development is considered necessary or desirable. These levels allow for residents to open windows to provide ventilation. The scheme has been designed to ensure that, where bedroom windows are on facades that exceed this level, second windows would be provided to other façades that would be subject to lower noise levels.
18. The difference between external and internal noise levels will depend on the periods when windows are open. Nonetheless, the 50 dB LAeq 8 hour external noise level standard would not necessarily ensure that internal levels would be to the standard in BS8233 and, indeed it seems likely that that standard would be exceeded. The appellant's noise statement⁵ acknowledges that, for some plots, it may be the case that, when residents open their bedroom windows, acoustic conditions would exceed the guideline value.
19. On the basis that the standards in BS8233 reflect the Lowest Observed Adverse Effect Level and given that this standard is likely to be exceeded, the quality of life of occupiers of the development would be affected. This would not amount to a significant adverse effect.
20. Nonetheless, Policy ENV2 of the LP requires high standards of amenity for occupiers of new buildings. For the reasons given it is unlikely that such standards would be achieved in the part of the development most exposed to traffic noise from the A14, and the proposal would not accord with Policy ENV2.
21. For these reasons the proposal would not provide acceptable living conditions for its occupiers, considered against the development plan requirement.

Flood risk and drainage

22. A Flood Risk Assessment (FRA) was submitted with the application. The Environment Agency had no objection to the proposal on grounds of flood risk but noted that the sequential test should be undertaken to determine whether land is available for the development that is at lower risk of flooding.
23. The Environment Agency Flood Risk mapping shows that while the majority of the site is in Flood Zone 1 (low probability of flooding), an area adjacent to its eastern boundary is within Flood Zones 2 and 3 (medium and high probability of flooding). The appellant states that all of the proposed development would be within Flood Zone 1. The flood risk mapping has not been overlaid on the proposed site layout, but it would appear from the submitted information that the proposed dwelling on Plot 27 would be within Flood Zone 2. This has not

⁴ BS8233:2014 'Guidance on Sound Insulation and Noise Reduction for Buildings'

⁵ Dated 31 March 2020

been explained or justified having regard to the need for the sequential test, which is a requirement of the National Planning Policy Framework and Policy ENV8 of the LP.

24. The Lead Local Flood Authority (LLFA) objected to the application on the basis that it had not been demonstrated that the surface water drainage system would not adversely affect ground water quality. The area of the former depot is contaminated, and measures are required to avoid contamination of the ground water in the underlying aquifer. A further FRA and Drainage Strategy were submitted with the appeal. This explains that tanked systems would be used to avoid ground water contamination.
25. While this measure would provide some reassurance, the drainage strategy is based on a previous layout and not the proposed development. It refers to the provision of a detention basin, but such a facility is not shown on the layout plan. The drainage strategy does not, therefore provide certainty regarding the suitability of the proposed drainage scheme in terms of managing flood risk and avoiding contamination of ground water.
26. I also note that the LLFA has concern about the clearance between the sustainable drainage scheme and ground water levels. The FRA states that infiltration systems would be designed following further testing of the subsoil. However, for the above reasons, it has not been demonstrated that appropriate surface water drainage arrangements for dealing with surface water run-off can be accommodated. This is a requirement of Policy ENV8 of the LP and the proposal would not accord with that policy in this respect.
27. For these reasons, it has not been demonstrated that the development would be acceptable in terms of flood risk and drainage.

Planning Balance

28. The development plan policies which are most important for determining the application are not out-of-date. The proposal conflicts with a number of those policies, and with the development plan as a whole. The provision of 36 new dwellings, including affordable housing would be a significant benefit, including in terms of contributing to the local economy through provision of construction employment and expenditure by residents.
29. The employment provided in the new B1 unit may compensate for the loss of the previous employment use, but no evidence has been provided to show that this would amount to a benefit. The provision of open space within the site is a policy requirement and as such this does not carry weight as a benefit. Overall, the benefits of the proposal are not of sufficient weight to outweigh the conflicts with the development plan.

Conclusion

30. For the reasons given, I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR



Appeal Decision

Site visit made on 19 June 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Appeal Ref: APP/A1015/W/19/3226426

Land Adjacent to 11 Newbridge Street, Old Whittington S41 9HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Carl Bayliss against the decision of Chesterfield Borough Council.
 - The application Ref CHE/18/00427/FUL, dated 15 June 2018, was refused by notice dated 15 March 2019.
 - The development is proposed semi-detached houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Land stability, with particular reference to coal mining legacy;
 - Whether the proposal would provide acceptable living conditions for future residents with regards to noise and disturbance from a nearby business use; and
 - Whether the proposal would make suitable provision for car parking.

Reasons

Land Stability

3. The Coal Authority (CA) has objected to the proposal as the site is located in a defined Development High Risk Area and a Coal Mining Risk Assessment Report, or equivalent, has not been submitted as part of the application.
4. The appellant has submitted a Non-Residential Mining Report which makes a number of findings in respect of coal mining activity. The appellant contends that no problems were identified in this report. However, I note that the report highlighted evidence or potential of past and future underground coal mining and mine entries. I also note that the CA have considered this report and maintained their objection stating that the report does not adequately address the impact of coal mining legacy on the proposed development. Reference is made to shallow mine workings in the area with a potential serious risk to ground stability and public safety. Taking a precautionary approach, it is therefore clearly difficult to conclude positively in relation to this issue.

5. The appellant considers that this matter could be addressed by a condition requiring detailed site investigation works. However, the onus of proof is on the appellant to demonstrate that subsidence will not unacceptably adversely affect the proposal or that it can be satisfactorily mitigated in the design of the development. There is no substantive evidence before me to demonstrate that such matters can be satisfactorily addressed. I also note the concerns raised that this may lead to an amendment to the layout of the proposal requiring a further planning application. Whilst the appellant may be prepared to accept this risk, this does not lead me to a different conclusion with regards to requiring sufficient evidence with regards to land stability.
6. I therefore conclude that insufficient information has been provided in relation to land stability issues which may affect the appeal site, and that the appellant is unable to demonstrate that the site is safe, stable and suitable for development. The proposal would therefore be contrary to the National Planning Policy Framework (the Framework) which seeks to ensure that a site is suitable for its proposed use taking account of any risks arising from land instability and that adequate site investigation information, prepared by a competent person, is available to inform this assessment.

Noise and Disturbance

7. The appeal site is located in close proximity to a fencing business and the Council has referred to a history of complaints from existing residents in the area relating to noise from this business. The owner of this business has also objected to the proposal referring to complaints with regard to this long-established business and the potential effect of new residential development neighbouring the premises.
8. Reference is made to various noise generating activities associated with the business, including a 'shaker table' which has a strong low frequency tonal character. At my site visit I also observed a forklift truck manoeuvring inside the site with associated noise which would be apparent from the appeal site.
9. The appellant has submitted a Planning Noise Assessment (PNA) and further information which considers the noise spectrum of activities at the business. On the basis of the PNA and subsequent information, the appellant's noise consultant concludes that proposed façade treatments including glazing design and trickle ventilation would mitigate noise sufficiently to achieve the required indoor ambient noise levels¹. However, this would rely on residents closing their windows and I have significant concerns about the appropriateness of such mitigation for the proposed dwellings in this suburban context. Although the need for residents to close their windows may be intermittent, I consider a reliance on trickle ventilation would not be adequate due to the nature of the proposed accommodation and the times of industrial operations.
10. Furthermore, the wish of residents to open their windows may lead to complaints in relation to the operation of the nearby business which could be difficult to address. Whilst residents would have the option of closing their windows this cannot be enforced and I consider that it would be difficult to use the availability of trickle ventilation to counter complaints that may arise. In this respect I consider that the proposal would conflict with the Framework which states that existing businesses should not have unreasonable restrictions

¹ As required by BS 8233:2014 - Guidance on sound insulation and noise reduction for buildings

placed on them as a result of development permitted after they were established.

11. I acknowledge that the history of complaints may have arisen from residents of properties with more limited acoustic mitigation than that proposed. However, this does not lead me to a different conclusion with regards to the suitability of the proposed mitigation and the need for residents to close their windows. The appellant has also referred to potential mitigation including acoustic fencing and the planting of a hedge. However, there is no substantive evidence that this would address noise issues without relying on residents keeping their windows closed.
12. I conclude that the proposal would not provide acceptable living conditions for future residents with regards to noise and disturbance arising from a nearby business. The proposal would therefore be contrary to Policies CS2 and CS18 of the Chesterfield Borough Local Plan 2013 (LP) with regards to the amenity of users taking account of noise. The proposal would also be contrary to the Framework with regards to achieving a high standard of amenity for future users and the effect on an existing business.

Car Parking

13. The site is accessed via Newbridge Street which is of a predominantly residential character. I saw that there were a number of vehicles parked along this street with some parked partially on the footpath. As a result of this parking the width of the carriageway available for the passing of vehicles was narrowed and there were some obstructions to pedestrians passing along the footpaths.
14. The proposal would provide one off-street parking space for each dwelling. The Council refers to a Highway Authority requirement for 2 parking spaces for each two-bedroom dwelling, although it accepts that this is a maximum figure and not a minimum requirement. Mindful of the limited size of the dwellings I consider that the provision of one space for each dwelling would be appropriate and would not lead to a material increase in on-street parking in the area to the detriment of highway safety. I note that this reflects the comments of the Highway Authority which states that it would be difficult to sustain an objection on this issue alone.
15. The site currently contains a number of garages and off-street parking spaces which would be removed. The appellant emphasises that the users of the garages have been told to vacate the site and that this parking provision would be lost regardless of the outcome of this appeal. I acknowledge that the loss of the garages could displace the parking of vehicles, although I saw that properties in the immediate vicinity of the appeal site on Newbridge Street and Langtree Avenue had off-site parking provision. Whilst residents of terraced properties in the area may use the garages, the majority of these properties are located some distance from the appeal site. The evidence therefore suggests that displaced parking would not lead to a significant increase in on-street parking in the immediate vicinity of the appeal site.
16. Newbridge Street also provides access to a gate for the adjacent business. At the time of my visit this access was blocked by materials stored on the site, although a commercial vehicle was parked on the access. I acknowledge that manoeuvring space is limited on the highway to the front of the site and there

may have been conflict between parked vehicles and deliveries to/from the business. However, I have concluded that the proposed off-street parking provision for the development would be appropriate and this would therefore not lead to an increase in on-street parking to the detriment of access to the business.

17. I conclude that the proposal would make suitable provision for car parking. The proposal would therefore comply with Policy CS18 of the LP with regards to providing adequate and safe parking. The proposal would also comply with the Framework with regards to the impact on highway safety.

Conclusion

18. Notwithstanding my conclusion in relation to parking provision, I consider that inadequate information has been provided with regards to land stability and that the proposal would not provide suitable living conditions for residents with regards to noise and disturbance. The proposal would therefore conflict with the policies of the development plan as a whole with regards to the amenity of future residents and the Framework in respect of ground conditions and pollution.
19. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR



Appeal Decision

Site visit made on 16 October 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29th January 2018

Appeal Ref: APP/V0510/W/17/3178635

Land north of Field End, Witchford, Cambridgeshire CB6 2XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Bovis Homes Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 16/01019/RMM, dated 29 July 2016, sought approval of details pursuant to condition No 2 of a planning permission Ref 15/01100/VARM, granted on 9 February 2016.
 - The application was refused by notice dated 10 April 2017.
 - The development proposed is the variation of condition No7. (Sustainable homes) of previously approved 14/00248/OUM for 128 residential dwellings with all matters reserved apart from means for access.
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Bovis Homes Ltd against East Cambridgeshire District Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Council have referred me to the emerging East Cambridgeshire Local Plan Proposed Submission version. However, from the information before me the examination of the emerging plan has yet to be completed, and policies within it could be subject to change. I can therefore afford only limited weight to these policies.

Main Issues

4. The main issues are whether the future occupants of the development would have acceptable living conditions with particular regard to outlook, noise and air pollution; and the effect of the development on the character and appearance of the area.

Reasons

Living conditions

5. The Council's concern over the living conditions of the future occupants of the dwellings centres on the visual impact of the bund on the occupiers of plots 57 to 88 inclusive and on noise and air quality matters. The proposed development includes an acoustic bund which would be in the region of 2.7 metres tall and would be formed using a Tensar Earth Retaining System as the sides of the bund would be angled at 70 degrees. There would also be 2.7 metres high acoustic fences to plots 57, 88 and 89.
6. The proposed bund would be located in the region of nine metres away from the rear of several of the proposed dwellings which back onto the A142. The plans indicate that the land levels of the rear gardens would be raised so that the noise bund would be in the region of 2.2 metres above the ground level on the side of the proposed dwellings. Notwithstanding that, given the height and steepness of the structure, and the relative size of some of the garden areas, it would be a dominant feature when viewed from the ground floor of the proposed dwellings which back onto the bund and when the future occupiers utilise their rear garden areas. To my mind, this would result in an unacceptably dominant structure and would contribute to a poor standard of living conditions for the future occupiers of the development.
7. It is noted that the acoustic bund was as a result of discussions between the Appellant and the Council during the course of the consideration of the application, with the original proposal being a 2.7 metre high acoustic fence. The Appellant has indicated that they would be happy to revert back to this fence as an alternative to the bund. Whilst I consider that the fence would be a significant improvement over the appearance of the bund, given the relatively small garden depths the acoustic fence would still be a significant structure which would be dominant to the future occupants of the proposed dwellings. I am also unclear how the regarding of the land for the rear gardens would be affected by this change in the proposal.
8. It is clear that without any mitigation, the occupants of the properties would be subjected to unacceptable levels of noise. The Planning Practice Guidance (PPG) states at paragraph: 008 Reference ID: 30-008-20140306 that *'for noise sensitive developments mitigation measures can include avoiding noisy locations; designing the development to reduce the impact of noise from the local environment; including noise barriers; and, optimising the sound insulation provided by the building envelope. Care should be taken when considering mitigation to ensure the envisaged measures do not make for an unsatisfactory development'*.
9. The Council have acknowledged that the mitigation put forward by the Appellant provides a technical solution to the issue of noise and I have no reason to disagree.
10. Whilst the noise bund would provide mitigation to the outdoor amenity areas and the ground floor of the properties, the Appellants evidence indicates that the noise bund would not deflect noise at the first floor level of the affected properties as the 'deflected noise' line is shown as being below the eaves level of the properties. To that end, the mitigation required to achieve the required

- internal noise level for the first floor accommodation is reliant on the noise reduction properties of the buildings themselves and the acoustic glazing.
11. The mitigation put forward by the Appellant also relies on the first floor windows being closed throughout the night. In order to achieve ventilation in the bedrooms facing the A142, it is proposed that there is a ventilation system which would draw air from a non-noise sensitive elevation through an intake fan.
 12. Notwithstanding this technical solution put forward, I share the Council's concerns that the future occupiers of the development would be unable to open the rear windows without being subjected to excessive noise especially during night-time hours. Whilst ventilation would be possible by drawing air from the non-noise sensitive elevations, to my mind, this would not provide a suitable standard of living accommodation and would provide an unsatisfactory form of development.
 13. In respect of the on-going maintenance of such ventilation, the Appellant has stated that this would be done by the future occupier of each property, in a similar fashion to any standard bathroom or kitchen ventilation system. Whilst I accept this would be the case, such kitchen and bathroom ventilation systems are not essential to providing an acceptable living environment as it is usual that such rooms also have the facility to open windows to ventilate the room naturally.
 14. The Council have also referred to the overdevelopment of the site, by placing too many dwellings near the A142. However, the proposal provides for all of the required amenity, parking and space standards necessary to make an acceptable development. To that extent, the proposal could not be considered to be an overdevelopment of the site. However, that does not mean that the development would provide suitable living conditions for its future occupiers in respect of outlook or noise.
 15. Turning to the matter of air quality, I note that this matter was also considered at the outline stage, but at that point in time it was not known where the location of the new dwellings would be on the site. Notwithstanding that, the Council's concern effectively relate to the proximity of the new dwellings to the A142 and that the future occupants would be subjected to an unacceptable level of air quality.
 16. The outline application and the reserved matters submission were supported by an Air Quality Assessment (AQA). The Council has, in its appeal statement, referred to a traffic survey by Cambridgeshire County Council in November 2016 which appears to indicate a higher level of traffic along the A142 than originally shown in the AQA. However, as pointed out by the Appellant, the location of this survey would also include traffic heading into Witchford along Main Street rather than travelling past the appeal site. This would invariably include traffic heading to/from the industrial and commercial areas. The Council have also indicated that they consider that additional traffic may use this section of the A142 following the construction of the Ely Southern Bypass. However, they have provided very little evidence to demonstrate that this would be the case.
 17. Whilst a housing layout with a greater separation distance between the A142 and the new housing would invariably assist in allowing any air pollution to

dissipate, from the evidence before me, the current proposal would still result in an acceptable standard of air quality for the future residents of the site, and in particular the plots backing onto the A142. To that extent, the proposal would accord with Policy ENV9 of the East Cambridgeshire Local Plan (2015) (LP).

18. Notwithstanding my conclusions in respect of air quality, for the above reasons the proposal would not provide for suitable living conditions for the future occupiers of the development contrary to Policies ENV2 and ENV9 of the LP which amongst other matters seeks to ensure that the future occupiers of new development enjoy high standards of amenity.

Character and appearance

19. The appeal site is located between the A142 and the existing built up area of Witchford. The boundary to the A142 has tree planting along it which provides a degree of natural screening. The Council assert that the bund would be an incongruous feature along the roadside but accept that there is a landscape screen within the highway limits of the A142.
20. From my site visit I saw that the bund itself would be largely screened from the A142 by the existing landscaping but would be visible from within the development. Whilst I accept that there is no guarantee that the highway landscaping would remain, it would nevertheless provide a suitable level of screening for the acoustic bund together with the landscape coverage on the bund itself.
21. In addition to the above, I acknowledge that the bund would also be partially visible from within the appeal site. However, whilst I have already concluded that it would contribute to unsatisfactory living conditions to the future occupants of the dwellings adjacent to the A142 it would not result in significant harm to the character and appearance of the area. In this respect, I consider that this is not a determinative factor.
22. For the above reasons the proposal would not give rise to significant harm to the character and appearance of the area and would accord with Policy ENV2 of the LP which amongst other matters seeks to ensure that all development will be designed to a high quality and relate well to existing features.

Other matters

23. I have also had regard to the other matters raised in the representations including matters such as the future management of the site (including open space, landscaping and sustainable drainage systems), drainage of the site, the type of housing, traffic and pre-application consultation.
24. However, none of the matters raised amount to a substantial planning issue or something that could not be dealt with by means of suitably worded planning conditions. Additionally, matters relating to traffic generation were considered at the outline stage.

Planning balance

25. The Council have indicated that they now have a five year supply of housing land, although this is contested by the Appellant. However, the Appellant considers that this is not relevant anyway to the reserved matters submission

as the principle of the development of 128 dwellings has already been established. That said, it is clear that should I be minded to allow the appeal then this would invariably facilitate the delivery of much needed new housing.

26. However, in this case, I consider that the harm which would result from the unsuitable living conditions of the future occupants of the dwellings significantly and demonstrably outweighs the benefits of allowing the scheme.

Conclusion

27. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR



Appeal Decision

Site visit made on 10 October 2018

by W Johnson BA (Hons) Dip TP Dip UDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2019

Appeal Ref: APP/Z5060/W/18/3203020
57 River Road, Barking, London IG11 0DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPD0).
 - The appeal is made by Mr C Schapira of RSBS Developments against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 17/01959/PRIOFF, dated 13 November 2017, was refused by notice dated 16 January 2018.
 - The development proposed is a change of use of first floor from B1(a) office use to C3 residential use (3 one bedroom flats and 5 two bedroom flats).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Revised National Planning Policy Framework (the Framework) was published in July 2018, after the appeal was lodged. I have had regard to the Revised Framework in reaching my decision.
3. For clarity, I have taken the details of the appellant from the appeal form, as they were absent on the application form.
4. For clarity, I have taken the description from the Council's decision notice and the appeal form, as it more accurately describes the proposal.

Main Issue

5. The main issue is whether the proposed development would provide acceptable living conditions for future occupiers, with regard to noise.

Reasons

6. The appeal property comprises a rectangular 2-storey rendered building with a flat roof, previously used as offices. The proposal is to convert the first floor of the building into 3 residential one-bedroom apartments, and 5 two bedroom flats. River Road is a main arterial route that serves the surrounding industrial area, in which the appeal site is located. When viewing the appeal site from River Road, there is a bus depot to the left, a plaster mould manufacturer/installer to the right and a timber yard/centre facing, across the road. To the rear is Creekmouth Industrial Estate where a variety of commercial/industrial businesses are located.

7. Whilst I appreciate that it only represents a snapshot in time, during my site visit on a Wednesday morning (10:45-11:15), I heard a range of noise in the area outside the building. It included crashing and banging emanating from the nearby properties. There was engine noise from vehicles using River Road, and including industrial idling HGVs, parked on River Road in close proximity to the appeal site. There was also noise from the operation of plant and machinery in the vicinity. Indeed, it was the type and level of sound and activity that might be expected of a predominantly industrial and commercial area.
8. As a result of the ambient noise characterised by the drone of machinery punctuated by sudden bangs and crashes, it struck me as an unsuitable environment for residential development, given the likelihood of recurrent disturbance to occupants from the surrounding commercial premises. Whilst I saw some residential development further afield to the north, there did not appear to be residential uses within the area immediately surrounding the appeal site.
9. The Planning Practice Guidance (PPG) advises that the 'subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected'¹. However, a Noise Assessment (NA) was submitted with the original application². This report was subsequently updated in November 2017 and then in April 2018 for the purpose of this appeal. A baseline noise survey was originally conducted from 16-17 March 2017 to determine external and internal noise levels. A further survey was carried out from 14-21 April 2018. The NA advises that these 2 sets of measurements are comparable, and I agree. The results contained in the NA demonstrate that general noise levels reduce during the night-time, but not markedly as some noise was still in evidence and increased from early in the morning. Generally all external levels taken appeared to be in excess of 60dB(A), except for the final night time reading on 20/21 April 2018, which registered 59dB(A). The appellant suggests that the internal noise survey results were within levels set out in the British Standard: BS8233:2014 and that a BS4142:2014 assessment is not needed. In this instance I do not consider BS4142:2014 entirely relevant in the determination of this appeal.
10. However, critically in my view, the NA says that the measurement of internal noise levels was made with the windows of the building closed. The NA concludes that daytime and night-time noise limits could be met on that basis. The acknowledgement of the need to keep windows closed to meet acceptable internal noise limits during the day and night is testament to the fundamentally noisy environment of an industrial area with a concentration of commercial premises likely to emit noise. Given this fact, I note that there is no suggestion in the NA of any measures of mitigation, such as mechanical ventilation.
11. However, at this particular location with its range of industrial noise sources, that would not sufficiently overcome the likely harm, as windows would still need to be kept closed to avoid exposure to noise exceeding reasonable levels. I am of the view that the surrounding environmental conditions would not be conducive to allow future occupiers of the proposed residential development the ability to open windows normally should they wish, especially during warmer weather.

¹ Paragraph: 006 Reference ID: 30-006-20141224

² Acoustic Consultancy Report 4278-FAC-ATN-1 – 57 River Road, Barking" dated May 2017.

12. Part 3, Class W of the GPDO sets out the procedure for prior approval applications under Part 3. Paragraph W.10(b) requires the decision-maker to 'have regard to the National Planning Policy Framework ... so far as relevant to the subject of the prior approval, as if the application were a planning application'. In paragraph 127 f) of the Framework requires developments to ensure a high standard of amenity for existing and future users.
13. Moreover, paragraph 170 of the Framework, advises that decisions should contribute to and enhance the local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Similarly, paragraph 180 of the Framework, requires that decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions, and avoid noise giving rise to significant adverse impacts on health and the quality of life.
14. Therefore, mindful of relevant advice in the Framework and the expectation of a good standard of amenity for future occupiers, placing residential development within this part of this industrial area, where it would be vulnerable to various sources of noise and disturbance, would be unacceptable. Whilst an office block may be hermetically sealed and reliant on artificial ventilation systems, it seems to me that residential occupiers, living at first floor of a two storey building, would reasonably expect to be able to open their windows during fine weather without being subjected to noise levels in excess of suggested limits.
15. The effects of the proposal on existing businesses that are sources of noise in the area should also be considered. This issue has been raised by various businesses operating from premises close to the appeal site on Creekmouth Industrial Estate, which in some instances operate 24 hours a day. Generally, their comments relate to noise generated by their operation, through the use of machinery, vehicle movements, etc. Some also advised that trade could be potentially affected if complaints from future residents were received about noise in the area. It is no defence under nuisance proceedings that the complainant came to the nuisance, which could leave such premises open to enforcement action by the Council, even though licensing may regulate some activities. That factor would also be relevant to other existing commercial operations on the estate which produce significant noise.
16. The issue is acknowledged in paragraph 182 of the Framework, which advises that planning policies and decisions should ensure that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Given the prevalence of commercial premises in the area, many generating noise, there is a realistic prospect that such complaints would arise, especially if future residential occupiers wished to open their windows. That aspect also weighs against the proposal.
17. Although noise assessments frequently refer to British Standards and even the World Health Organisation³, it is worth remembering that they were not drafted with the same objectives as planning policy nor intended to have the same formal role and effect as either development plan policies or national planning policy and guidance. They do not set specific standards in that context and

³ WHO – Guidelines for Community Noise

whilst they can be taken into account, such matters ultimately rest on a planning judgement by the decision-maker.

18. Given the acknowledged adverse impacts that noise can have on health and quality of life and the noise environment of the industrial estate, I conclude that the living conditions for future occupants would be unacceptable, as a result of the impacts of noise from neighbouring commercial premises.

Other Matters

19. The appellant has questioned whether the Council determined the application within the 56 day timescale set out within the GPDO. However, as I have found that the proposal subject of the current appeal would not be permitted development, the question of whether permission could be deemed to be granted in relation to the 56 day timescale is not applicable.
20. The Council appears satisfied that there would not be any significant transport and highways impacts, contamination or flood risks which could not be dealt by means of suitable conditions. On the basis of the evidence before me, I see no reason to take a different view. Therefore, the proposal would be acceptable in those respects.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, the proposed scheme could not benefit from deemed permission under Schedule 2, Part 1, Class O of the GPDO. I therefore conclude that the appeal should be dismissed.

W Johnson

INSPECTOR



Appeal Decisions

Site visit made on 26 March 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2019

Appeal A Ref: APP/Q3820/W/18/3203568

Kingston House, Stephenson Way, Three Bridges, Crawley RH10 1TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by M J J Cluck against the decision of Crawley Borough Council.
 - The application Ref CR/2018/0065/PA3, dated 5 March 2018, was refused by notice dated 11 May 2018.
 - The development proposed is described as "Prior Notification requirement under Part O of the GPDO for the change of use of offices (Class B1a) to form 51 apartments - see covering letter".
-

Appeal B Ref: APP/Q3820/W/18/3203570

Saxon House, Stephenson Way, Three Bridges, Crawley RH10 1TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by M J J Cluck against the decision of Crawley Borough Council.
 - The application Ref CR/2018/0184/PA3, dated 5 March 2018, was refused by notice dated 8 May 2018.
 - The development proposed is described as "Prior Notification requirement under Part O of the GPDO for the change of use of offices (Class B1a) to form 24 apartments - see covering letter".
-

Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Application for costs

3. An application for costs was made by Mr J J Gluck against Crawley Borough Council. These applications are the subject of a separate Decision.

Preliminary Matters

4. For ease of reference I refer to the different cases as Appeal A and Appeal B in this decision letter as set out in the headers. I have dealt with each appeal on its own individual merits but to avoid duplication, I have considered the appeals together in this document. Although there are two appeals, I have used singular terms in places for the ease of reading.

5. Paragraph O.2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) sets out the matters that the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required. Paragraph O.2(1) (d) includes the impacts of noise from commercial premises on the intended occupiers of the development.
6. Paragraph W.(11)(c) states that development must not begin before the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused. That sub-paragraph (2) details the information that should accompany the application. The appellant claims that the 56 days had expired before the notifications were issued.

Main Issues

7. The main issues for both appeals are:
 - Whether permission is deemed to have been granted as a result of the timing of the Council's decisions; and
 - If permission is not deemed to have been granted, whether the noise from commercial premises on the intended occupiers of the development is such as to require refusal of prior approval under Paragraphs O.2(1)(d) and W.(3) of the GPDO.

Reasons

Timing of the Council's Decisions

8. The applications were made on 5 March 2018 and the Council confirm that the deadline of the expiry of the 56 day period to determine the applications would have been 1 May 2018. The appellant states that as all the required information was submitted on 9 March 2018, the 56 day period should be 5 May 2018. Notwithstanding this disagreement and on the basis of the date that the Council received the applications, the 56 day period would expire on 1 May 2018. The Council's decision notice for Appeal A is 11 May 2018 and for Appeal B is dated 8 May 2018. The appellant therefore argues that as the Council failed to make a decision within the requisite 56 day period, permission is deemed to have been granted.
9. On 27 April 2018 the Council received an email¹ from the appellant's agent, stating that, "*my client would be willing to agree a new determination date for both applications until 12 May 2018...*". The Council argue that, in accordance with Article 7 (c) of the GPDO, it had the appropriate written notice from the appellant that a longer period to the 56 day determination period had been agreed and both decisions were made before that period expired.
10. The appellant contends that he did not give written notice for a longer period to the 56 days and that the Council have implied an extension by context. This is unacceptable as the GPDO only allows deadlines to be extended "*through express and unequivocal written agreement*". Furthermore, the email of

¹ Email dated 27 April 2018 @13:20hrs

27 April 2018 from his agent to the Council stated that the appellant would be "willing" to extend the deadline which is an offer and not a formal agreement.

11. I have carefully considered the appellant's arguments regarding whether he agreed to a longer period to determine the applications and based on all the information before me, which includes other emails², I am satisfied that such an agreement was entered into by both parties. Moreover, I have not been provided with any substantive evidence that an email cannot be considered "in writing" for the purposes of agreeing the longer period. Furthermore, there is no requirement under Article 7 of the GPDO that both parties have to agree the longer period independently, only that there is an agreement "by the applicant and the authority in writing", and the email from the appellant's agent is that written agreement. Consequently, permission was not deemed to have been granted.

Noise

12. Kingston House is a flat roofed three storey building constructed of brick which lies on the corner of a spur road and faces onto Stephenson Way. Saxon House is a smaller building of a similar construction and lies perpendicular to Kingston House, at the head of the spur road. The buildings are located within an existing commercial/industrial area with a variety of uses such as car sales, vehicle repairs, self-storage units, a coach depot and other commercial uses and office space.
13. The appellant argues that the GPDO does not allow the Council to consider matters of amenity and the occupant's rights to open windows is an amenity issue and thus, is not relevant to the appeal before me. However, the GPDO clearly states that it is the impacts of noise from commercial properties on the intended occupiers that is for consideration and I am not persuaded by the appellant's argument that this is not a matter that I can take into consideration.
14. Stephenson Way is a very busy road with car transporters, coaches and other large vehicles accessing properties along the road network. The appellant submitted a noise assessment³ which confirms that the dominant noise sources were from the movement of vehicles and exceeds the recommendations set out within British Standard 8233:2014: Guidance on sound insulation and noise reduction for buildings. However, as the proposed flats would be ventilated by a Mechanical Heat Recovery and Ventilation system with air-conditioning for overheating, the occupants of the flats should not be able to open windows for ventilation. Consequently, the predicted noise levels within the flats are considered to comply with the British Standard.
15. The proposed flats would be owned separately from the various commercial properties and I have not been provided with any evidence that activities at Stephenson Way is restricted to daytime hours only or could be controlled. The Framework specifically advises at paragraph 182 that existing businesses should not have unreasonable restrictions placed upon them as a result of development permitted after they were established.
16. During my visit I witnessed a variety of vehicles entering and exiting Stephenson Way and experienced the noise that they generate. It is evident

² Email dated 27 April 2018 @12:52hrs and email dated 27 April 2018 @14:27hrs

³ Environmental Noise Assessment, Adnitt Acoustics Ref: 2037/EBF/R1-B dated 5 March 2018

that the occupiers of the proposed flats would be exposed to that noise which may occur at any time and would significantly affect their quality of life. I have carefully considered the appellant's suggestion of a condition to ensure that windows are closed and sealed shut. However, I find this to be an excessive measure to overcome the location of the development within an established commercial estate. Furthermore, to require the occupants of 75 flats to live in accommodation where they could not open a window to allow air to circulate and to rely on mechanical ventilation, would not only be a waste of natural resources but would also result in an oppressive environment for residents.

Conclusion

17. For the reasons given above, and having regard to all matters raised, I conclude that Appeal A and Appeal B is dismissed.

Graham Wyatt

INSPECTOR