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Planning Appeals
Wiltshire Council
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Your Ref: PL/2023/09224
Our Ref: APP/Y3940/W/24/3337566

12 August 2024

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr D Glanville
Site Address: Prestex House, 7-8 Edison Road, SALISBURY, SP2 7NU

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Sean Ernsting
Sean Ernsting

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The Planning Inspectorate

Appeal Decision

Site visit made on 10 July 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2024

Appeal Ref: APP/Y3940/W/24/3337566
Prestex House, 7-8 Edison Road, Salisbury, Wiltshire SP2 7NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr D Glanville against the decision of Wiltshire Council.
- The application Ref is PL/2023/09224.
- The development proposed is change of use of vacant office to 6 bed dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) provides for a permitted development right for the change of use of a building falling within use class E (Commercial, Business and Service) to class C3 (dwellinghouses). This is subject to limitations and conditions, as set out in subsequent paragraphs of Class MA.

3. Accordingly, I have only had regard to the development plan, emerging development plan, the National Planning Policy Framework and other documents referred to me by the main parties, in so far as they are material consideration relevant to matters of prior approval.

4. Although the Noise Impact Assessment ('NIA') did not form part of the documents that were submitted with the original application for prior approval, this was provided before the application was determined. Also, the Council has had the opportunity to comment on this as part of the appeal. As such, I have accepted the NIA in determining this appeal.

Main Issue

5. The main issue is whether the proposed development would comply with the limitations and conditions of Class MA of the GPDO in respect of: (i) the impact of noise from commercial premises on the intended occupiers of the development in accordance with Class MA Condition MA.2(2)(d) of the GPDO and (ii) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses in accordance with Class MA Condition MA.2(2)(g) of the GPDO.

Reasons

Noise

6. The appeal site forms part of Prestex House, a detached building, part occupied by a commercial use which is located centrally within the Churchfields Industrial Estate ('Churchfields'). The wider estate covers an area of about 33 hectares and accommodates in the region of 200 commercial/industrial uses. These include a nearby concrete mixing and distribution business and a household waste recycling centre. Although my visit only represents a snap shot in time, I observed that this is a busy and noisy commercial environment, which includes noise associated with heavy goods vehicle movements and other machinery/equipment being operated in the area.

7. The main parties agree that based on relevant guidance, the internal ambient noise should not exceed 30dB in bedrooms at night and 35 dB in habitable rooms during the day. The NIA confirms that the recorded average internal sound levels during daytime (07:00-23:00) and nighttime (23:00-07:00) hours were 32 dB LAeq and 24dB LAeq, respectively. Therefore, the internal ambient noise of the premises would only accord with the relevant guidance on the basis of a closed window scenario.

8. The NIA also confirms that the external sound levels are at a range that indicates a possible risk of adverse effect when windows are open during an overheating scenario, meaning small behaviour changes and some sleep disturbance may occur. Given the industrial nature of the sound during the day, a greater likelihood of adverse impact may be expected.

9. To address the above, the NIA says: 'To control internal sound levels to alleviate or prevent an overheating scenario, it would be prudent to provide an alternative means of increased ventilation rates or cooling, such as a mechanical ventilation system or comfort cooling.' Although the appellant has suggested that this could be secured by a planning condition, I have limited information in relation to this key component of the appellant's mitigation strategy.

10. The proposed mitigation strategy would also require all windows to the habitable rooms (living room and bedrooms) to be closed. The appellant suggests that city centre residents are often prepared to compromise on not having openable windows because central living can provide greater benefits, such as convenient access to employment and leisure opportunities.

11. Despite its accessibility to shops, services and facilities, the appeal site is within an established industrial estate. Moreover, the Council's Noise and Vibration Planning Consultation Guidance Note (2023) states that schemes which rely on closed windows and alternative ventilation to mitigate noise from industrial and commercial uses will not be accepted. Whilst this Guidance Note may support closed windows as a mitigation strategy, this is only an option once all other acoustic mitigation measures have been considered and implemented where possible. In this case, on the information before me, I cannot be certain that all other acoustic mitigation measures and mitigation have been considered.

12. Furthermore, the Wiltshire Design Guide says that noise levels within internal habitable rooms (bedrooms and living rooms) should always be assessed on the assumption that windows are open for natural ventilation purposes.

13. I also consider an open window allows ventilation of a different nature to that provided artificially. Therefore, I can foresee instances where those living in the proposed accommodation may wish to open their windows during the night or at times other than in the height of summer, despite the noise outside and even though other means of ventilation are possible.

14. Overall, the proposed noise mitigation strategy fails to meet the Council's aspirations for securing quality residential environments.

15. Furthermore, future occupiers would be under no obligation to close windows. Consequently, and based on my findings in relation to the 'Location' in particular, the 'agent of change' principle' as set out below, I do not consider the proposed noise mitigation to be suitable or acceptable.

16. For the above reasons, the proposal would introduce a sensitive residential use into a noisy location, which would result in the amenities of any future occupants being adversely impacted by levels of noise associated with the surrounding commercial uses.

Location

17. Core Policy 2 of the Wiltshire Core Strategy ('WCS') identifies the Churchfields and Engine Sheds, as a strategically important site (where development would be supported) in retaining 5 hectares of employment land and providing 1,100 dwellings. This includes Churchfields and the appeal site. The aims of Core Policy 2 of the WCS are also supported under Core Policy 20 of the WCS.

18. However, the WCS makes it clear that the redevelopment of Churchfields will only come forward as part of a comprehensive redevelopment of the whole estate through a detailed masterplan. It also says that this will not be supported until an appropriate site/s have been identified for the existing employment uses operating out of Churchfields to relocate to. Nevertheless, since the WCS was adopted in 2015 this has not occurred. There is still no masterplan for Churchfields and no dedicated employment sites onto which the 33 hectares of existing employment uses at Churchfields can relocate.

19. Moreover, the new draft Local Plan which is currently at Regulation 19 stage and has recently been out for public consultation, allocates Churchfields as a Principal Employment Site. Therefore, it is clear that the Council does consider this to be an important employment site that has thus far failed to be relocated elsewhere and so the future direction of travel is to safeguard its long term future at Churchfields, as one of the County's main employment sites, which is of importance to the economic role of the County.

20. Residents of the proposed development could choose to leave windows open and then complain that noise levels from neighbouring industrial processes are unacceptable. If it then transpires that such activity amounts to a statutory nuisance, then the responsible person for the source of the noise must abate the nuisance. With the approval of the proposed residential scheme, the 'nature of the locality' would have changed and for this reason the 'agent of change' principle is fundamental in protecting existing commercial uses. By definition, the 'agent of change' principle will tend to apply when new uses are brought to existing ones with which they would potentially conflict.

21. The Environmental Protection Act places a legal duty on the Council to investigate complaints of alleged statutory nuisance and there is a general duty to survey the

area for matters amounting to a statutory nuisance and to cause them to be abated. This could result in extra costs incurred by businesses to provide mitigation measures and the curtailing or reduction of activities and operations. The closure of a business could also be a potential outcome.

22. Even if I were to accept the appellant's assertion that the Council's desired future path is to incrementally adapt Churchfields into a mixed-use neighbourhood. In light of the 'agent of change' principle and my findings in respect of the impact of noise, this specific proposal cannot be supported. Therefore, I am not persuaded that the proposal accords with the overarching principles of WCS Core Policy 57, which includes having regard to the compatibility of adjoining buildings and uses.

23. Consequently, and based on my observations in respect of 'Noise' as set out above, irrespective of the proposal relating to a single building on a substantial commercial/industrial estate, this would not be appropriate and is likely to undermine its future longevity as an employment site.

24. As such, the proposed residential use at Churchfields would impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general industry.

Other considerations

25. The appeal site is located in a location identified for mixed-use development with good accessibility to shops, services and facilities. The proposal would also bring office space which has remained vacant since October 2022 despite being actively marketed. This would support local and national planning policy aims for boosting the supply of homes. As such, there would be social and economic benefits associated with the proposal. Nonetheless, such benefits arising from a single dwelling would be limited and do not outweigh my consideration of the matters of prior approval and the harm arising from conflict with these.

26. I have taken account of the dwellings at 43 and 44 Churchfields Road. The Council's Public Protection Team have confirmed that there are no records of noise complaints from these properties. Even so, these dwellings are located on the periphery of Churchfields and are detached from commercial buildings and are also afforded some separation from these by amenity areas. As already specified, the appeal site forms part of a commercial building located centrally within Churchfields. Also, I cannot be certain that the soundproofing and environment in respect of noise for the existing dwellings is the same as the appeal site. Therefore, the existing dwellings are not comparable to the appeal site and do not alter my findings on the main issue.

Conclusion

27. For the above reasons, prior approval for matters identified under paragraphs MA.2(2) (d) and (g) of the GPDO, is not given and therefore the appeal should be dismissed.

M Aqbal

INSPECTOR