
Appeal Decision

Site visit made on 25 October 2016

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 15th November 2016

Appeal Ref: APP/G2815/W/16/3153304
Elmington Top Lodge Barn, Ashton Wold, Oundle,
Northamptonshire PE8 5LZ

- 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 Miss Charlotte Lane against the decision of East Northants District Council.
 - The application Ref 15/01238/FUL, dated 8 July 2015, was refused by notice dated 13 January 2016
 - The development proposed is change of use of agricultural barn to single residential dwelling, creation of noise attenuation bund and associated landscaping together with provision of car park for adjacent rifle range.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant's statement of case¹ states that the key issues for the appeal are the principle of residential development, and whether an acceptable level of residential amenity could be achieved having regard to the shooting range. However, the Council's reasons for refusal are concerned with future restrictions on the use of the shooting range and the setting of a non-designated heritage asset. It is clear from the officer's report that the principle of development is acceptable to the Council, and as such I have not included this issue in my reasoning.
3. With regard to the shooting range, the reasons for refusal state that the applicant has failed to demonstrate that the proposed dwelling would not be significantly impacted upon by the noise from the shooting range, and that it is likely that future occupiers would submit complaints relating to noise, resulting in unreasonable restrictions being placed on existing developments from changes in nearby land uses. However, the evidence before me from both main parties relates to the effect of the shooting range on the living conditions of future occupiers of the development. The policies cited also deal primarily with living conditions. Consequently, I have identified the living conditions of future occupiers as a main issue, with consideration of the potential restrictions on the adjacent business as a supplementary concern.

¹ EJW Planning, June 2016

4. During the appeal the Council confirmed that the North Northamptonshire Joint Core Strategy² (JCS) was adopted in July 2016 and that this replaced the North Northamptonshire Core Spatial Strategy³ (CSS). Consequently, I have disregarded policies contained within the CCS.

Main Issues

5. The main issues are:

- the living conditions of future occupiers, with particular regard to noise; and,
- the effect of the development on the setting of a non-designated heritage asset.

Reasons

Noise

6. The appeal property is an imposing two-storey stone barn situated on rising ground just outside the Ashton estate. To the immediate south of the barn is a rifle range which extends in a broadly east-west direction across a shallow valley, to a line of targets on the opposite slope. The prevailing landform is broadly undulating and has an open character.
7. The development comprises the conversion of the barn to residential use, and the Council has raised a concern in respect of the impact of the noise from the rifle range on the living conditions of future occupiers, stating that noise levels would reach unreasonable levels both internally and externally, when the range was in use. Although the appellant states that the range is used typically for 17 -28 days per year, the maximum allowed under the lease is 60 days. The Council advises that there is no planning limitation on the number of days the range can be used.
8. Planning Policy Guidance⁴ (PPG) requires decision making to take account of the acoustic environment, identifying whether the overall effect of a proposed noise exposure would be above or below the significant observed adverse effect level (SOAEL) as given in the NPSE⁵. This is defined as the level above which significant adverse effects on health and quality of life occur. The NPSE goes on to state that it is not possible to have one single objective noise-based measure to define the SOAEL, as it is likely to be different for different noise sources, for different receptors and at different times. However, the PPG notes that SOAEL is reached when noise causes a material change in behaviour and/or attitude eg. avoiding activities during periods of intrusion⁶.
9. The nature of a shooting range is that when operational, the noise will be intermittent and percussive, and human receptors may have reactions to the sound of gunfire that cannot be adequately captured by survey data and modelling. The irregularity and suddenness of the reports may also contribute as much to annoyance for receptors as the sound's loudness; I have based my reasoning largely on loudness, as this is the measure primarily used in the

² North Northamptonshire Joint Core Strategy, July 2016

³ North Northamptonshire Core Spatial Strategy, June 2008

⁴ Ref ID 30-004-20140306

⁵ Noise Policy Statement for England, March 2010

⁶ Ref ID 30-005-20140306

evidence before me, which also indicates that other objective assessment criteria for gunshot noise is limited.

10. The appellant has provided an acoustic report⁷. This provides modelling to demonstrate the likely noise levels generated by the range and the impact of mitigation. I note that the report presumes in its modelling parameters that the area around the site is flat but I disagree with this assumption as the local topography is gently rolling. Consequently, although the conclusions drawn by the acoustic report are useful, I am not satisfied they can be relied upon, as at least one parameter is incorrect. This limits the weight I give to the modelling in the report.
11. With regard to external noise levels in amenity spaces, the relevant British Standard⁸ (BS) notes that levels of steady external noise sources should not exceed 50 dB $L_{Aeq,T}$ with an upper guideline of 55 dB $L_{Aeq,T}$ in noisier environments. The modelling data in the acoustic report shows that when shooting is occurring at 500 yards, closest to the barn, the noise levels in the rear courtyard would reach up to 85 dB $_{Amax}$. The appellant suggests that mitigation measures comprising a large earth bund, would alter the nature of the sound⁹. However, notwithstanding that there may be some dulling of sound as a consequence of the bund, the loudness of the shots would be significantly higher than the recommended ambient level. Furthermore, the frequency of shots would be irregular and although the percussive effect may be dampened to some extent, it is likely there would be subjective annoyance or alarm for human receptors.
12. When firing is occurring at 300 yards, the sound levels in the rear courtyard would be up to 65 dB $_{Amax}$, which would also be considerably higher than the upper BS guidelines. The appellant states that when shooting was occurring future occupiers of the barn could sit in alternative garden areas. However, given that the rear courtyard would directly abut the main open plan living areas of the conversion, I am not satisfied that this would be an appropriate or reasonable adjustment. Furthermore, this appears to indicate that the appellant recognises that sound levels in the rear courtyard would be sufficiently loud to require adjustments to behaviour. In addition, given the intermittent nature of the noise, residents using the rear courtyard may find it inconvenient to move when the shooting started.
13. In the light of the above, I conclude that the rear courtyard would be unusable when the range was in use, and that the SOAEL would be reached and exceeded. The recommended action in PPG in that circumstance, is avoidance. I appreciate that the modelling predicts worst case scenarios, but this does not alter my reasoning.
14. The evidence before me includes another acoustic report and model, prepared by Sharps Redmore¹⁰. This advised on the potential effectiveness of a 5 metre high earth bund in reducing sound levels, and concluded that sound levels in the rear courtyard for all shooting distances would be between 65 – 80 dB $_{Amax}$. Notwithstanding my reservations with regard to the noise report referred to in

⁷ Acoustic Consultants Limited, June 2015

⁸ BS 8233:2014

⁹ The footprint of the proposed bund, shown in the Acoustic Consultant Ltd report, is significantly longer than that shown on Dwg. 23473 PA002. However, its length could be controlled through the imposition of a condition, were the appeal to be allowed.

¹⁰ Sharps Redmore, October 2013

paragraph 9, and the inclusion of a bund significantly larger than that proposed in the appeal before me, there is broad consistency between the reports in the predicted sound levels for the barn's rear garden. The appellant states that the Council has relied in its evidence on figures in the Sharps Redmore report which ignore the noise mitigating effects of acoustic barriers. However, the figures I have used in my reasoning from that report are those from Table 3.1, modelled with a 5 metre high bund in place.

15. In order to compare the results of the modelling with other assessment criteria, I have turned to BRE¹¹ research in relation to clay pigeon shooting¹², also contained with the evidence before me. This indicates that annoyance is highly likely to occur above 65dB(A). This further supports my reasoning that the sound levels associated with the rifle range would have a significantly adverse effect on the living conditions of future occupiers with regard to the use of their immediate external amenity space.
16. The acoustic report concludes that sound mitigation within the proposed construction would reduce internal noise levels for the home office and living room to 38 – 48 L_{Amax} dB and 31 – 41 L_{Amax} dB respectively. The BS also notes that ambient noise level over a 16 hour period should not exceed 35 dB L_{Aeq} for living rooms and 40 dB L_{Aeq} for dining rooms. From these figures I conclude that the loudness of the gunshot, with mitigation in place, would not be significantly higher than the acceptable background noise. Consequently, notwithstanding my reservations in relation to the accuracy of the modelling, the figures given do not suggest that they would cause a significant observed adverse effect with regard to internal noise.
17. Having considered the loudness of the shooting, I now turn to its frequency. Notwithstanding that the current level of usage is limited to one or two days per month, the lease allows up to five days per month which, in combination with loudness, would have a significant effect on living conditions for future occupiers. The extent of harm caused would also be predicated upon the hours of activity on each of those days. Furthermore, there is nothing in the evidence before me to indicate that there are restrictions on the range's operation which would prevent an increase in the use allowed under the lease.
18. Moreover, the acoustic report itself does not appear to support the premise that the development would not interfere with future occupiers' living conditions. The report concludes that the modelling has taken all available mitigation measures into account, and that the predicted gunfire noise levels would be significantly lower than those currently experienced by Elmington Top Lodge. However, this does not justify allowing another dwelling in the immediate vicinity. The appellant notes that there have been no complaints with regard to noise, but I give this argument little weight as occupiers of such properties as are relatively close, may not be using their gardens or indeed be at home when the range is operational. However, the living and working arrangements of future occupiers of the barn conversion cannot be so presumed.
19. JCS Policy 8 (e) states that development should ensure quality of life by not resulting in an unacceptable impact on the amenities of future occupiers by

¹¹ British Research Establishment, 1997

¹² Chartered Institute of Environmental Health; Clay Target Shooting, Guidance on the Control of Noise, January 2003

reason of noise, and that development that would be adversely affected by unacceptable levels of noise will be prevented. In the light of my reasoning it is likely that the development would result in an unacceptable impact on living conditions of future occupiers, contrary to JCS Policy 8 (e).

20. Paragraph 123 of the National Planning Policy Framework (the Framework) states that decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development, and that businesses should not have unreasonable restrictions placed on them because of changes in nearby land uses. Given the levels of noise likely to be experienced I conclude that it is likely that there would be pressure to reduce use of the existing rifle range, contrary to the provisions of Paragraph 123 of the Framework, as outlined above.

Non-designated heritage asset

21. Although not a listed building, the Council states that the barn's significance is related to its historic fabric, as well as the spatial and functional relationship with Elmington Top Lodge, a modest period dwelling located to the immediate east. The open space around the barn and the dwelling allows unobstructed views of both buildings and an appreciation of their spatial relationship and simple vernacular design. The appellant states that the removal of latter day untidy and crude additions would restore the historic character of the building and enhance its appearance and setting in the wider landscape. I noted on my visit that the barn is a notable and attractive feature in the open landscape and its position on rising ground makes it particularly prominent. Accordingly, I consider the unobstructed views of the barn and adjacent dwelling make a significant contribution to an appreciation of its setting.
22. There are existing engineered earth bunds associated with the rifle range, one of which is to the immediate south of the barn, but these are limited in height to about 1 – 2 metres, and in length to about 10 – 15 metres. As such, in the context of the surrounding broad open landscape they are not particularly prominent and do not disrupt the setting of the barn or the dwelling.
23. The proposed bund would be some 3 metres high, with a 2 metre high fence on the top according to the acoustic report. It would also be some 90 metres long and sit atop the broad ridge, so it would be visible on the skyline. Situated some 10 metres from the southern elevation of the barn, the bund would obstruct and encroach into views of the barn from its access track and the wider landscape. It would also be a significant and prominent feature in the immediate setting of the barn and dwelling. Although the existing bunds have an engineered appearance, this bund would be of significantly greater height and extent, and considerably more conspicuous in the landscape.
24. The plans show a landscaped bund but there is no further information provided. Whilst planting could be imposed as a condition to disguise the shape and extent of the bund, it would take some time for trees to grow sufficiently to provide screening. In any case, the surrounding landscape has an open character and although I noted a planted screen around a modern agricultural building on the approaches to the site, the extent of planting required to provide screening to the bund would be out of character with the surrounding landscape. Consequently, tree planting would not provide appropriate mitigation for the bund.

25. JCS Policy 2 sets out to protect, preserve and where possible enhance the historic environment, and development proposals should protect and enhance key views of heritage assets. JCS Policy 3 requires development to conserve and where possible enhance the character and qualities of the local landscape and safeguard important views and vistas. In this instance, I concur with the Council that the bund would appear as an alien feature in the landscape, and would fail to comply with the requirements of JCS Policies 2 and 3 in relation to the barn and ETL.
26. Paragraph 135 of the Framework requires the effect of an application on the significance of non-designated heritage assets to be taken into account when determining development proposals. Although the fabric of the barn would be restored were the appeal to be allowed, the bund would dominate its setting to the detriment of its visual relationship with the wider landscape. As such, I conclude that the benefit of the restoration work would not be outweighed by the harm caused to the barn's setting, as outlined above, and I conclude that there would be harm to a non-designated heritage asset, contrary to the requirements of Paragraph 135 of the Framework.

Other matters

27. The appellant refers to the extant permission¹³ for the use of the barn as holiday cottages. However, whilst I recognise that this would result in occupancy of the barn, future occupiers would not be permanently resident and as such I concur with the Council that the noise would overall have a lesser effect on their living conditions than those of permanent residents. Regarding the absence of noise-related concerns with regard to this previous application, I am required to determine to the appeal before me. Procedural matters relating to a previous application are outside the scope of this appeal.
28. I appreciate that the conversion of the barn would represent a windfall contribution to local housing, as well as the restoration of a locally significant building. However, these benefits do not outweigh the harm I have identified above with regard to the effect of the rifle range on the living conditions of future occupiers or the harm to the setting of a non-designated heritage asset.
29. I also appreciate that this is a rural site and that game shooting occurs on the estate. However, this does not alter my reasoning with regard to the conversion of a barn directly adjacent to the rifle range.

Conclusion

30. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and Joint Core Strategy and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR

¹³ Ref 15/01326/FUL