

NEWBURY 17/02682/PACOU Pins Ref 3202287	Unit 4 36 Queens Rd. Newbury A W S Communications Ltd	Application to determine if Prior Approval is required for conversion of first floor office accommodation into two one-bedroom flats.	Dele. Refusal	Allowed 14.1.19
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Background and Main Issue

Schedule 2, Part 3, Class O of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwelling houses) of that Schedule.

Development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as regards the transport and highways impacts of the development; contamination risks on the site; flooding risks on the site; and impacts of noise from commercial premises on the intended occupiers of the development. The single issue between the parties concerns noise. The main issue is, therefore, whether the proposal would provide adequate living conditions for its intended occupiers with particular regard to the impacts of noise from commercial premises.

Reasons

The appeal site is part of an office and industrial complex. It occupies the first floor of a 2-storey office building. To one side of it is a garage, with a railway line beyond, and to the opposite side, 2 commercial units used as a builder's store and, beyond that, a third used as by a windscreen repairer.

There would be little risk of noise disturbance from the offices below, which are small. The builder's units appear to be used only for the storage of materials, and the windscreen repairer's unit appears to be used as a place to store and collect windscreens rather than to fit them. The Inspector appreciated that occupiers may change. However, given the distance of the windows of the flats, which on this side would serve living rooms, from the openings of the commercial units and their likely hours of operation, the risk of noise disturbing the future occupiers would be unlikely. The small size of the car-park and the limited space in the yard, as well as its location off the beaten track also suggest that the activity levels at this complex are unlikely to disturb future occupiers.

The garage on the opposite side of the office building repairs and services cars and light vehicles from within 4 bays enclosed by roller shutters. It is to this aspect that the more noise-sensitive rooms of the flats would be located.

From his site visit, the Inspector saw processes in the garage involving hand tools and inspection ramps, but the noise generated was steady and not excessive and was contained within the building. He could not identify any specific character to the noise such as strong, low-frequency or continuous tones. The openings in the garage, alongside the office building, appeared to serve its offices and were not used for servicing. Given the location of the openings in the garage and their distance from the bedroom windows of the flats, and the nature of operations within, there is little risk of a significant adverse impact on the occupiers from noise from within the garage.

There was in his view more risk of disturbance from the manoeuvring of cars in the car-park onto which the bedroom windows would open. However, he noted that the garage operates only from 08:00 to 17:30 on Mondays to Fridays and between 08:00 and 12:00 on Saturdays. The operating hours would restrict the opportunity for disturbance from operations, and the number of spaces would limit the risk of disturbance from manoeuvring.

The appellant's noise survey recorded 6 peaks of 40dB, including 58 events of 30dB during the night. The survey does not attribute the peaks, but with the garage closed from 17:00, night-time peaks cannot be attributed to it. The other source of noise which the Council identifies is the railway, running just beyond the end of the garage unit.

The Inspector saw modern blocks of flats nearby with habitable room windows closer to the railway than this proposal. In these circumstances, he was not convinced that railway noise would result in a significant adverse impact on the occupiers. In any event, the Order concerns only noise from commercial premises.

The survey shows that the habitable room most exposed to noise would have an indoor ambient daytime sound level of 24dB $L_{Aeq,16hour}$ against the recommended bedroom level in British Standard BS 8233₁ of 35dB $L_{Aeq,16hour}$. Against the night-time level recommended in the British Standard of 30dB $L_{Aeq,8hour}$ the survey recorded 20dB $L_{Aeq,8hour}$. This suggests that the ambient noise levels in the proposed flats would be acceptable.

The Inspector understood the Council's concern about converting a unit in the middle of an industrial and office complex to residential. However, as well as the noise assessment, the Inspector took into account the size of the surrounding uses and their location, the size of the parking area serving them, and the displacement of the proposal from their openings. On the basis of not only the noise assessment, but the configuration of the buildings in the complex, their size and location, the displacement of openings and the character of the uses, he concluded that the proposal would provide adequate living conditions for its intended occupiers with particular regard to the impacts of noise from commercial premises.

Conditions

The GPDO imposes standard conditions including those relating to commencement and that the development should be carried out in accordance with the submitted details. It permits conditions reasonably related to the subject matter of the prior approval. As the Inspector had found no significant adverse impact on the future occupiers from commercial premises, and having regard to other dwellings closer to the railway, a noise mitigation condition is not necessary to make the development acceptable in planning terms. However, given the central location of the site and the lack of surrounding spaces, a condition to provide and retain the identified parking spaces is necessary to prevent unsustainable stress on the street parking in the area.

Conclusion

For the reasons given above, and having regard to all other matters raised, the Inspector concluded that the appeal should be allowed and prior approval granted. In granting approval, the appellant should note that O.2. (2) of the GPDO states that development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

Decision

The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the conversion of first floor office accommodation into two one-bedroom flats at Unit 4, 36 Queens Road, Newbury RG14 7NE in accordance with the terms of the application Ref 17/02682/PACOU, dated 25 September 2017, and the plans submitted with it, subject to the following condition:-

- 1) The car parking spaces to be provided shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.

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