



## Appeal Decision

Site visit made on 18 December 2018

**by Darren Hendley BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 January 2019**

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**Appeal Ref: APP/Y2736/W/18/3211983**

**Land to the south of Glenroyd, Barton Hill, York YO60 7JZ**

- 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 Thomas Coe against the decision of Ryedale District Council.
  - The application Ref 17/00994/FUL, dated 18 August 2017, was refused by notice dated 11 April 2018.
  - The development proposed is described as the 'removal of asbestos cladding from existing building and replacement with steel cladding. Change of use from storage to industrial as a catering preparation kitchen. Temporary siting of a portable building for 3 years to be used as a preparation kitchen whilst work is undergoing on the development of existing building.'
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of The Cottage, Glenroyd and Avanti by way of noise and disturbance.

### Reasons

3. The appeal site contains an asbestos cement bound clad building. The site abuts a boundary with a neighbouring residential property known as The Cottage. The access extends between Glenroyd and Avanti, which are also residential properties. The appeal site boundary is undefined from adjacent land which contains a larger building and hardstanding areas, which have been historically used for a variety of uses. More broadly, Barton Hill comprises a modest number of residential properties found in an area which is countryside in its character, and is located close to the York to Scarborough railway line and the A64.
4. With the proximity to the neighbouring residential properties, there is the potential for the proposal to cause noise and disturbance because it would involve the use of the building and, temporarily, a portable building for catering preparation kitchen purposes, and create associated vehicular movements. A typical noise impact assessment report was not provided with or during the planning application, although the appellant provided some related information in the application submission and responded to requests from the Council

- during the planning application for further information concerning the nature and the likely extent of the noise and disturbance that might arise.
5. The information provided in relation to the proposed use of the existing building, includes the use of acoustic mitigation to limit the noise to 50dBA that would be caused by the proposed kitchen ventilation odour control system. The equivalent information before me concerning the proposed portable building is, though, of a more limited nature. It does not provide me with a sufficient degree of assurance that the noise would be limited to an acceptable level as the associated drawing shows a level of 55dBA. Although it would be in use for a temporary period, this would be for up to 3 years, which is a significant period of time as regards the potential effect on the living conditions of the occupiers of the nearest residential properties.
  6. In particular, the proposed portable building would be located in close proximity to the boundary with The Cottage and even though the dwelling is set back from this boundary, the area in between is fairly open and the maintained part of the garden is considerably closer. With the residential use of this property, it would be sensitive to the likely noise that would be generated from the proposed use of the portable building as a preparation kitchen, even if the ventilation would be on the elevation facing into the site. The intended operational hours would not diminish my concerns.
  7. The context of the site needs to be considered and I am aware of its proximity to the railway line and the A64, notwithstanding that it essentially lies in the countryside. Again, though, with the limited noise information concerning the use of the proposed portable building and also on the relevant background noise levels, this attracts limited weight in my decision. A 1.8 metre close boarded fence is proposed on the boundary with The Cottage, although this is stated to be for the purposes of privacy and I do not have information concerning its acoustic mitigation qualities. Based on the information before me, I am, therefore, unable to conclude that the proposal would not be unacceptable as regards noise and disturbance in this regard.
  8. In relation to the effects on the living conditions of the occupiers of Glenroyd and Avanti, the predicted vehicle movements that would use the access appear reasonable given that the extent of the operation would largely be determined by the size of the buildings that would be in use. Both these dwellings are also set back from the access road, in part, by their own driveway and parking arrangements. As a consequence, the effects concerning noise and disturbance in this respect would not be unacceptable.
  9. The approved food related development that the appellant has referred me to lies on the edge of a town centre, and so the site circumstances are significantly different from what is before me, as is the use of public houses for catering purposes. In any event, and with regard to other locations that have been brought to my attention, the proposal falls to be determined on the basis of the particular site circumstances.
  10. I conclude that the proposal would have an unacceptable effect on the living conditions of the occupiers of The Cottage by way of noise and disturbance. As such, it would not comply with Policy SP20 of the Ryedale District Council, Ryedale Plan-Local Plan Strategy (2013) (LPS) which states that new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings

or the wider community by virtue of its design, use, location and proximity to neighbouring land uses, and goes on to identify noise as an impact on amenity, amongst other factors.

11. The proposal would not have an unacceptable effect on the living conditions of the occupiers of Glenroyd and Avanti concerning noise and disturbance. This does not, though, address the potential for the undue effects on the occupiers of The Cottage and the conflict with Policy SP20 of the LPS.
12. The Council's reasons for refusal also include Policy SP6 of the LPS, although the protection of amenity in the context of this policy relates to major industrial processes that do not reasonably concern the proposal and, hence, I have not considered this policy further.

### **Other Matters**

13. The proposal would bring economic benefits by way of employment, the potential for training and it would diversify the local economy away from a reliance on traditional and larger scale employers. There is support for its economic credentials through a number of the development plan policies, as well as the National Planning Policy Framework. However, this is not unqualified and it would not address, or outweigh, the concerns that I have identified as regards the effect on living conditions. The same applies concerning the improvements to the appearance of the existing building and the site.
14. The Council did offer the appellant a shorter temporary time period for a planning permission, although as this was not taken up I have not considered this matter further. The potential for the use to be located in other parts of the broader site also does not enter into my considerations as that is not what is before me.

### **Conclusion**

15. For the reasons set out above, and having regard to all matters that have been raised, the appeal should be dismissed.

*Darren Hendley*

INSPECTOR