



Appeal Decision

Site visit made on 7 August 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 18th August 2017

Appeal Ref: APP/H1033/W/17/3175290

Reddish Barns, Reddish Lane, Whaley Bridge SK23 7FY

- 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 Adrian McCay against the decision of High Peak Borough Council.
 - The application Ref HPK/2016/0663, dated 6 December 2016, was refused by notice dated 24 February 2017.
 - The development proposed is construction of a private dwelling house.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development would provide for a satisfactory living environment for future residents, with particular regard to the proximity to existing outdoor sports facilities and the effect in respect of light and noise.

Reasons

3. The appeal site lies within the defined built-up area boundary of Whaley Bridge identified in the High Peak Local Plan (LP), adopted April 2016, where housing development on unallocated sites is supported by Policy H1, subject to all other policies in the LP. The site consists of an overgrown parcel of land accessed from a driveway linking to Reddish Lane that serves Reddish Farm and Barns, a residential conversion of farm buildings immediately to the west. The driveway is shared with a public right of way that runs to the north of the site, beyond which are fields designated within the Green Belt leading to a reservoir. The eastern boundary of the site is partly formed by the outer fencing of a Multi Use Games Area (MUGA) within Whaley Bridge Memorial Park that is served by four floodlighting columns with eight luminaires in total. To the south, beyond an adjoining overgrown parcel of land, is a primary school.
4. Policy EQ6 of the LP, amongst other things, requires that development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects including by reason of noise and light pollution. The proposed dwelling and its external amenity areas would be immediately adjacent to a floodlit MUGA which would generate increased levels of light and sound during its operation. When taking account of the core principle of the National Planning Policy Framework (the Framework) that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, it is reasonable that a

satisfactory relationship to adjacent development includes consideration of the potential effect of existing sources of noise and light.

5. Based on the evidence before me, the MUGA consists of a 3G pitch available for use between the hours of 0830-2130 on each day. The appellant has provided booking details from Saturday 1st April 2017 - Friday 30th June 2017 which indicates intermittent usage on different days of the week and during daytimes and evenings. However, I am not satisfied that such details reflect times of the year where demand for its use may be higher, for example in winter months when grass pitches without floodlighting are less suitable for use in late afternoons and evenings. In any case, there is no evidence before me that the future use of the MUGA would be limited during its periods of availability for use. Consequently, I must necessarily consider the potential effect of higher levels of demand for use of the MUGA and the possibility of its use taking place for longer periods during its opening hours on each day in the future.
6. Planning Practice Guidance (PPG)¹ provides a link to guidance on exemptions relating to the statutory nuisance regime for artificial light provided by DEFRA². The DEFRA guidance sets out that artificially illuminated sports facilities benefit from the defence of 'best practicable means'. It is, therefore, of significant importance to ensure that the existing light installations do not make the proposed location for development a living environment that would be unsuitable due to light pollution or obtrusive light.
7. A lighting assessment accompanied the planning application and utilised the criteria within guidance from the Institute of Lighting Professionals (ILP)³ to assess the human effects of artificial lighting. Calibrated equipment was used during the daytime and also in the late evening during hours of darkness when the MUGA pitch lighting was in operation on Friday 23 September 2016, together with subjective assessments of light source intensity. The guidance indicates the basis of the assessment to be an environmental zone classification reflective of surroundings and lighting environment. The environmental zone classification cross references to specific obtrusive light limitations for exterior lighting installations in terms of sky glow, light intrusion into windows, luminaire intensity and building luminance pre-curfew (curfew is suggested as 2300 hours after which stricter requirements for control of obtrusive light apply). The ILP guidance recommends that Local Planning Authorities specify the environmental zones for exterior lighting control within development plans.
8. There is no evidence before me that the LP defines an environmental zone classification which covers the site. The lighting assessment adopts environmental zone E3 (EZ-E3) which reflects a suburban location with a lighting environment of medium district brightness. However, based on my observations of the site, there is an absence of street lighting along the access road, open fields and a reservoir to the north and screening of other built up areas of Whaley Bridge afforded by topography and tree cover in Whaley Bridge Memorial Park. Consequently, it is an outer suburban location adjacent to Reddish Farm and Barns where, aside from the floodlights, there are no significant sources of artificial light. In such circumstances, to my mind, the

¹ Light pollution, Paragraph: 001 Reference ID: 31-001-20140306 Revision date: 06 03 2014

² Department for Environment Food and Rural Affairs, Statutory Nuisance from Insects and Artificial Light – Guidance on Sections 101 to 103 of the Clean Neighbourhoods and Environment Act 2005

³ Institute Of Lighting Professionals - Guidance Notes for the Reduction of Obtrusive Light GN01:2011

development should be assessed relative to environmental zone E2 (EZ-E2) given that the prevailing lighting environment is of low district brightness reflecting a relatively dark outer suburban location adjoining rural surroundings.

9. The lighting assessment indicates that the recommended limitation threshold in EZ-E3 for light intrusion (into windows) of 10 Ev [lux] (and therefore, also the lower threshold in EZ-E2 of 5 Ev [lux]) would be significantly exceeded on the eastern elevation of the dwelling. That elevation includes lower ground floor windows serving two bedrooms and a gym and a ground floor window serving an office that would face the MUGA lighting. Permanent blackout window screening measures for bedrooms is recommended as mitigation. However, to my mind, such an approach would be unsuitable and would not provide a satisfactory living environment for the habitable rooms because it would necessitate removal of any outlook during periods of darkness when the floodlights are in use to prevent light pollution. Those restrictions would have a significant adverse effect upon the living environment within the dwelling, particularly in winter as periods of darkness occur from the mid-afternoon onwards.
10. Mitigation measures in terms of extension of side shields on the two luminaires closest to the site and adjustment, modification or replacement of the cowl / shield to a luminaire facing the site are also recommended by the light assessment. Based upon the evidence, implementation of those measures could ensure compliance with the obtrusive light limitation threshold in EZ-E3 for light intrusion (into windows) on the south elevation and north elevation of the dwelling. However, the mitigation measures would not achieve the lower thresholds in EZ-E2 relative to those elevations. Furthermore, the measures would not prevent harmful obtrusive light intrusion into external amenity areas which would adversely affect the enjoyment and function of those spaces when the floodlights are in operation, despite the possibility of those areas being partially lit by domestic lighting. In any case, works to the luminaires fall outside of the control of appellant and therefore, could not be reasonably secured by condition.
11. Having regard to the above, the development would be adversely affected by obtrusive light which could not be mitigated by condition. Consequently, the dwelling and its external amenity areas would be incapable of providing a satisfactory living environment for future residents due to the light pollution arising from proximity to the existing MUGA lighting when in use.
12. Turning to matters of noise, an acoustic report submitted with the application undertook noise measurements over a 24-hour period from 8 - 9 August 2016 with calibrated equipment at a location in close proximity to the MUGA fence. The measurements identified that ambient noise levels increase by approximately 10dB L_{Aeq} when the MUGA is in use with individual noise events such as football kicks and voices reaching levels of up to 78.3 dB $L_{A_{fmax}}$ and 82.3 dB $L_{A_{fmax}}$ respectively. To my mind, the increase in ambient noise levels during the use of the MUGA, together with the likely frequency of individual noise events, would reflect levels that would be a noticeable and intrusive change in acoustic character of the area for receptors within the site resulting in a significant adverse impact.

13. Daytime ambient noise levels close to the MUGA, a similar location to the eastern elevation where bedrooms would be located, significantly exceed the recommended internal ambient noise levels for dwellings in BS 8233:2014⁴ when the MUGA is in use, with higher maximum noise levels from individual noise events. The noise evidence identifies that it would be technically feasible with sound insulation measures to meet recommended internal ambient noise levels for dwellings, and external amenity space, in accordance with BS 8233:2014. However, I am not satisfied that the internal sound insulation measures proposed, given the reliance upon double glazing and mechanical ventilation, would appropriately address noise concerns in periods of hot weather when future occupiers may reasonably wish to have windows open.
14. In such circumstances and on the basis of the evidence before me, I consider that there would be an unacceptable risk of future occupiers experiencing intrusive and disruptive noise and disturbance as described in the PPG⁵ to an extent that significant adverse effects on health and quality of life could occur. The harmful effect could not be mitigated by the use of non-opening windows for habitable rooms, as such an approach would have a detrimental impact on the living environment for residents.
15. The addition of a 2 metre acoustic fence along the eastern boundary could bring ambient noise levels marginally below the desirable criteria for external amenity areas in BS 8233:2014. However, to my mind, the nature and frequency of the individual noise events, which could not be controlled, would result in harmful disturbance that would have a significant detrimental impact upon the enjoyment of those spaces for the purpose intended.
16. Having regard to the above, the development would be adversely affected by noise pollution and resultant disturbance which could not be mitigated by condition. Consequently, the dwelling and its external amenity areas would be incapable of providing a satisfactory living environment for future residents relative to noise pollution when the MUGA is in use.
17. Taking all of the above into account, I conclude that the proposal would not provide for a satisfactory living environment for the future occupiers of the proposed development, due to the light and noise pollution that would arise from the existing MUGA in close proximity. The proposal, therefore, conflicts with Policy EQ6 of the LP and the Framework.

Other Matters

18. The proposal would offer potential benefits in terms of a contribution to housing supply with potential economic benefits to the local area, including the contribution of additional residents to the local economy and support for local services. There would also be temporary economic benefits relating to the construction works associated with the development. However, the extent of those benefits is limited for a development comprising a single dwelling.
19. I am satisfied that the design of the development, including the dwelling height relative to surrounding land levels, inclusion of a lower ground floor level, fenestration, materials and alterations to the dry stone walling, would assimilate appropriately with the character and appearance of the nearby converted farm buildings. Furthermore, the living conditions of occupiers of

⁴ BS 8233:2014 Guidance on sound insulation and noise reduction for buildings

⁵ Noise, Paragraph: 005 Reference ID: 30-005-20140306 (Revision date 06 03 2014)

those neighbouring properties would be preserved in terms of privacy and outlook by the separation distance to the dwelling and its limited scale and massing arising from differences in topography. In addition, appropriate access and parking arrangements could be secured by condition and the limited increase in traffic would not have a detrimental impact on highway and pedestrian safety. The site lies within an area of low flood risk, would result in no loss of trees within the site and would have no adverse effect on ecological interests if mitigation/protection measures were imposed. However, the absence of concern in all of those respects is a neutral factor.

Conclusion

20. The Framework does not change the statutory status of the development plan as the starting point for decision making. The harm arising from the conflict with LP policies in so far as the proposal would not provide for a satisfactory living environment for the future occupiers of the proposed development, would not be outweighed by other material considerations, including the contribution of a single dwelling to the supply of housing and the associated economic and social benefits identified. The proposal is not sustainable development when considered relative to the LP and the Framework as a whole.
21. For the reasons set out above and having taken all other matters into consideration, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR