

10. FULL APPLICATION – ERECTION OF CONDENSING UNIT AT GROUND LEVEL TO THE WEST ELEVATION OF THE BUILDING AT J E NOUTCH, HOPE ROAD, BAMFORD (NP/HPK/1118/1042 SPW)

APPLICANT: MR ROGER JEPSON

Site and Surroundings

1. The site is located on Hope Road (A6187), it is not within a designated settlement. A funeral directors business operates from the site, there is also a joiners operating from the site.
2. To the east of the site there are two dwellings in the immediate vicinity, 'Edge View' and 'Croft House'. To the west there are another two dwelling. One is a grade 2 listed building known as 'The Farm' the other is over Thornhill Lane and known as 'Fern House'. 60m To the north of the site are the train lines.
3. The site has vehicular access from the A6178, there is a parking area/yard. The front of the building subject of the application is open to public view.
4. The application is retrospective, the condensing unit is located in a small yard area between two buildings and is not open to public view.

Proposal

5. The proposal is a retrospective application to regularise the existing condensing unit.
6. The unit is 1101mm x 444mm x 662mm. It has a white finish and is fixed onto a mounting. Since the application has been submitted these have been upgraded with anti vibration fittings.
7. It is located to the west side of the building facing into a small yard area.
8. A noise impact assessment has been included with the submission.

RECOMMENDATION:

That the application be APPROVED subject to the following condition:

1. The external condensing unit hereby approved shall incorporate anti-vibration mounts to prevent structure-borne noise to adjoining properties and shall be permanently so maintained.

Key Issues

9. Amenity impacts of noise from the unit on the nearby residential properties and impact on the character and appearance of the area.

History

2018 – Enforcement Case 18/0144 – There is an active enforcement case open in relation to an unauthorised air conditioning unit at the undertakers premises. This has led to the submission of the current planning application, they were advised to include a noise impact assessment. The Monitoring and Enforcement team have also investigated an alleged unauthorised change of use, but have found no such breach of planning control.

Consultations

10. Highway Authority – No highway comments
11. District Council Environmental Health (EHO) – The acoustic report is accepted. This suggests that complaints are unlikely; however the occupants of an adjacent property are experiencing nuisance noise and this is currently being investigated by Environmental Health. At this time the noise at the adjoining property has not been witnessed by the EHO so they have been unable to confirm the extent of noise interference; however EHO will be making a visit ASAP and will comment further closer to the determination target date. The report suggests that noise may be structure borne (as vibration through the ground) in which case the recommendation to fix the appliance with anti-vibration mounts makes sense. A condition is suggested.
12. Update - Further to initial comments a couple of site visits have been undertaken by Environmental Health, and they have not been able to identify any significant noise from the development site. They will continue to investigate the complaint, however at this stage HPBC do not have any objections to the development subject to the anti-vibration mount condition being applied to any approval.
13. Parish (Town) Council – No objection of the visual impact of the proposal.
14. Concerned that unacceptable noise is created by the refrigeration equipment. The submitted noise report focusses on the condensing unit, but is silent on the bigger source of noise, the refrigeration equipment.
15. The refrigeration noise is most relevant during the night hours, when the ambient noise in the vicinity is low - and so it is at night that the noise is the biggest nuisance to nearby residents.
16. Councillors wonder whether the building to which the condensing unit has been attached should have been the subject of a Change of Use application. While the site as a whole has been a funeral director's business for many years, this specific building has not been part of that activity (other than for storing vehicles) until now.

Representations

17. Representations from 4 parties have been received these are set out below.
18. Two letters consider there will be no impact on their residential amenity from the proposal and support the application.
19. One representation states that the condensing unit cannot be seen or heard from their property and the occupants are not affected by the siting of the unit. However, the siting of a mortuary adjacent to a dwelling is of concern. They consider that the letter sent from the "Bamford with Thornhill Council" seems to be a fair summary of the problem in general. The representee is in support of their position.
20. One representation considers a change of use is required; their home is located 1.5m from the boundary to J E Nutch and approximately 4m from the building in question they consider they are greatly affected by the recent change of use to a mortuary; the condenser unit and related refrigeration system have been installed in the building and these appliances they explain are causing significant noise pollution in their home. They explain their health is now being impacted and their sleep disturbed; They suggest that the unit and associated refrigeration would only be run during office hours 9-6 and not

24hrs a day and that the four single glazed windows should be changed to modern triple glazed windows to try and mitigate the day time noise nuisance. Sound proofing needs to be installed to the roof, floor and walls of the building in question to try and mitigate the day time noise nuisance and further investigation needs to be carried out as to the suitability of the change of use of the building.

21. Main Policies

22. Relevant Core Strategy policies: GSP1, GSP2, GSP3, GSP4, L1, L3, DS1, E2.

23. Relevant Local Plan policies: LC3, LC4, LC6, LE4, LE6.

National Planning Policy Framework

24. The revised National Planning Policy Framework (NPPF) was published in 2018 and replaced a significant proportion of central government planning policy with immediate effect. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and saved policies in the Peak District National Park Local Plan 2001. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.

25. Para 172 of the NPPF states that *'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.'*

Peak District National Park Core Strategy

26. Policy GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GSP1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.

27. Policy GSP2 says that opportunities for enhancing the valued characteristics of the National Park will be identified and acted upon, and opportunities will be taken to enhance the National Park by the treatment or removal of undesirable features or buildings.

28. Policy GSP3 sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.

29. GSP4 this requires that to aid its spatial outcomes the National Park Authority will consider the contribution that a development can make directly and indirectly and to its setting and where consistent with government guidance using planning conditions and planning obligations.
30. Policy DS1 is permissive of development for extensions to existing buildings.
31. Policy L1 identifies that development must conserve and enhance valued landscape character and valued characteristics, and other than in exceptional circumstances, proposals in the Natural Zone will not be permitted.
32. L3 deals with heritage assets and requires that development must conserve and where appropriate enhance or reveal the significance of the heritage assets and their settings. Other than in exceptional circumstances development is not permitted that is likely harm the significance of a heritage asset.
33. CS Policy E2 relates to Businesses in the countryside amongst other things it explains that proposal to accommodate growth and intensification of existing businesses will be considered carefully in terms of their impact on the appearance and character of landscapes.
34. Policies in the Core Strategy are also supported by saved Local Plan policies LC4, LC6, LE4 and LE6.
35. Local Plan Policy LC4 explains that if development is acceptable in principle it will be permitted provided that the detailed treatments are to a high standard that respects, conserves and where possible enhances the landscape, built environment and other valued characteristics of the area. Particular attention is paid to inter alia (i) scale, form, mass and orientation in relation to existing buildings, settlement form and character, and (ii) the degree to which design details, materials and finishes reflect or compliment the style and traditions of local buildings.
36. LC6 would not permit development that harm the significance of a Listed building or its setting.
37. LE4 Outside Local Plan Settlements, expansion of existing industrial and business development (other than that linked to homeworking, farm diversification, forestry, mineral working and appropriate recreational activity) will not be permitted unless:
 38. it is of a modest scale in relation to the existing activity and/or buildings, and does not extend the physical limits of the established use;
 39. it does not harm and wherever possible secures an enhancement to the amenity and valued characteristics of the area and the appearance of the site;
 40. new or extended buildings are clearly justified and proper consideration has been given to the possibilities of using appropriate existing buildings to meet the needs of the business.

41. Local Plan Policy LE6 this deals with the design, layout and neighbourliness of employment sites including haulage depots and requires that - Where development for employment purposes is acceptable in principle, it will only be permitted provided that every practicable means is used to minimise any adverse effects on the valued characteristics and amenity of the surrounding area. Particular attention will be given to: visibility from vantage points; site access, vehicular circulation and parking; site layout and use of open space surrounding buildings; storage of vehicles or other equipment; landscaping and other screening; noise and proposed times of operation. Where necessary, planning permission will restrict the future scale and intensity of the activities on site.

42. Design Guidance

43. As noted above, GSP3 of the Core Strategy requires the design of new development to be in accordance with the National Park Authority's adopted design guidance. The Authority's 'Design Guide' and 'Detailed Design Guide for Alterations and Extensions' have been adopted as SPDs following public consultation and the 'Building Design Guide' is retained until it is replaced with the forthcoming technical appendices.

44. The 'Design Guide' identifies local building traditions and materials and explains how to achieve a high standard of design which is in harmony with its surroundings.

Assessment

45. This application has been submitted following investigations from the Authority's Monitoring and Enforcement team in 2018. They found only one breach of planning control and that was that a condensing unit had been installed without planning permission. They also considered whether there had been a change of use on the site that requires planning permission but found there had not been. They found the use taking place in the building in question to be part to the Funeral Directors business operating on the site.

46. The Authority's planning policies which relate to design (LPP LC4, CS GSP3) and business operations (LE4 and LE6) are highly protective of the amenity of nearby properties. Because of this and also because the enforcement case shows there is concerns from nearby properties in relation to noise. Planning and Monitoring and Enforcement officers advised that any forthcoming application for the condensing unit be supported by a noise impact assessment.

Noise

47. This application has been submitted to regularise the breach of planning control and includes a noise impact assessment.

48. The submitted noise report has been carried out to the relevant British standard. It identifies the nearest noise sensitive property which is the adjoining dwelling to the east. The noise report acknowledges that the condensing unit may run at night, and the report considers these night time background noise levels and uses the lowest recorded night time background noise level to assess the impact on the nearest sensitive property. The report concludes that the noise from the condensing unit at the nearest noise sensitive location (24.8 dB) is below background noise levels (27dB), this is classed as a low impact.

49. The noise report does suggest that it is possible that the noise being experienced by the neighbouring property is due to structure borne noise and the report therefore recommends that anti-vibration mounts are installed to the fixing of the condenser units.

The district council Environmental Health officers have been consulted on this proposal. They accept the noise report and have no objections to the proposal subject to conditions to install the anti-vibration mounts.

50. The neighbours and Parish Council's objections to the proposal in relation to noise are noted. However, given the evidence of the noise report and consultation response from Environmental Health, it cannot be concluded that the proposal for the condensing unit, subject to conditions to secure the anti-vibration mounts will harm the amenity of neighbouring properties.
51. The objector and parish council state that there are other noise sources on the site (refrigeration equipment). These are outside the scope of this planning application and not in breach of planning control, so outside the control of this planning application and the Authority. Any noise arising from the refrigeration equipment is a matter for Environmental Health under their statutory nuisance remit. Environmental Health have visited the site and found there is no statutory nuisance on the neighbouring residential properties arising from the application site.
52. The application demonstrates that the impact of the proposal is acceptable, and that every practicable means has been utilised to ensure that the proposed condensing unit will not harm the amenity of nearby properties. The anti-vibration mounts recommended in the noise report have now been installed. Subject to conditions to retain the anti-vibration mounts the proposal is therefore considered to be in accordance with the policies of the development plan that relate to amenity and business operations including (LPP LC4, CS GSP3) and business operations (LE4 and LE6).

Design, siting impact on the character and appearance of the area and the nearby Listed building

53. The design and appearance of a condensing unit is utilitarian and functional. The siting of the condensing unit is hidden from public view and will not affect the setting of the nearby listed building. Its design and siting is acceptable. The proposal is in accordance with the policies of the development plan insofar as they are related to design, siting and impact on setting including the setting of a listed building.

Conclusion

54. Subject to conditions the proposal is considered to be in accordance with the policies of the development plan.

Human Rights

55. Any human rights issues have been considered and addressed in the preparation of this report.
56. List of Background Papers (not previously published)
57. Nil
58. Author of the report: Steven Wigglesworth