

Application for a Removal of a Condition; Supporting Statement

Planning Consent Reference CEF/2023/0233

Property; Former HSBC Property, 26 Well Street, Cefn Mawr, Wrexham, LL14 3AE.

Condition No 6

Wording of the Condition

6. No part of the development shall commence until a noise survey has been carried out, and a detailed report of the survey findings has been submitted to, and approved in writing by, the Local Planning Authority. The noise survey shall determine noise levels for both Day (07:00 – 23:00 hours) and Night (23:00 - 07:00 hours), having regard to Planning Policy Wales (PPW) Guidance, Technical Advice Note (TAN) 11 – Noise. The report of the noise survey findings shall include:

- a) Noise levels arising from day/night time activities in the vicinity of the proposed development site and the impact upon the existing or proposed accommodation, and
- b) A detailed scheme of noise insulation and/or attenuation measures so designed to safeguard the amenity of the existing or occupants of the proposed accommodation hereby approved.

The measures as are approved shall be fully implemented prior to the first occupation/use of the development.

Requirement of Planning Conditions

Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum and only used where they satisfy the following tests.

1. Necessary
2. Relevant to planning
3. Relevant to the development to be permitted
4. Enforceable
5. Precise, and
6. Reasonable in all other respects.

Each of these tests need to be satisfied for a condition to be enforceable. These tests however suggest this condition should be removed. The reasons for this are as follows.

1. It is not necessary
 - a) This is a quiet mainly residential neighbourhood with houses and small service businesses in the immediate vicinity and with no obvious sources of disruptive external noise.
 - b) The houses proposed are modest family houses with no unusual features that suggest they could create noise problems.

- c) Sound insulation of houses and in particular party walls is a matter for Building Control and not the Planning Authority.
- d) A noise condition such as this is not normal for two houses to be created from a conversion in an already predominantly residential area.
- e) Unreasonable sources of noise beyond the houses being created would normally be dealt with by local environmental health officers, and is not the responsibility of the LPA to try to control.

2. The Consent is not relevant to planning

- a) We see above that noise between houses and into houses are the responsibility for Building Control and Environmental Health and is not the domain of the planning Authority. The condition is therefore not relevant to planning.
- b) The previous consent for seven flats here (ref CEF P/2020/0266 had no similar condition relating to noise. If a scheme for seven flats did not warrant or a noise condition then certainly a scheme for two family houses would not warrant such a condition. This reinforces the fact that the condition is not relevant to planning. From this argument follows the argument that the condition is not relevant to the development either.

3. The consent if not relevant to the development.

This point is reinforced by the fact that adjoining the development to the east is a fenced off piece of amenity land. To the west at ground level is a private closed off walk through that forms a sound barrier whilst the houses themselves on their south sides will have good sized private gardens.

4. The Condition is not reasonable

- a) This development is on the verge of being unviable. It is therefore unreasonable to impose unnecessary costs onto this developer. We can say with a good degree of certainty that should this developer be forced into expensive noise reports and the like then the scheme as consented is likely to be shelved and this important building in this conservation area will continue to rot and be left empty.
- b) We can see that as Environmental Health and Building Control have responsibilities towards noise it is unreasonable to impose a further layer of beaurocracy onto this development to cover the very same subject
- c) It is clearly unreasonable to impose a noise condition on a development of two houses but not to impose a similar condition on a development of seven flats for the same property.

Quite obviously the conditions relating to noise is not relevant here. It is unnecessary, unfair, unreasonable and needs to be removed. If noise was a problem, which it is not in this location, then Building Control and Environmental Health have powers to deal with it. On this point we quote from Government guidance as follows:

"Specific circumstances where planning conditions should not be used include;

Conditions which unreasonably impact on the deliverability of a development."

Conditions requiring compliance with other requirements (eg Building regulations).

Signed Michael O'Connell

Dated 25 March 2024