
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 12/05/21

Ymweliad â safle a wnaed ar 22/05/21

**gan Mr A Thickett, BA (Hons) BTP Dip
RSA MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 2/6/21

Appeal Decision

Hearing Held on 12/05/21

Site visit made on 22/05/21

**by Mr A Thickett, BA (Hons) BTP Dip RSA
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 2/6/21

Appeal A: APP/H6955/A/19/3241654

Appeal B: APP/H6955/A/19/3241655

Site address: Lodge Farm, Borrass Road, Commonwood, Wrexham, LL13 9TE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeals are made by Mr J Tomlinson against the decisions of Wrexham County Borough Council.

Appeal A

- Application Ref: ROS P2019/0046 dated 18 January 2019, was refused by notice dated 22 May 2019.
- The development proposed is the change of use of land from agriculture to use for clay pigeon range in association with Field and Falcon gun shop and gunsmiths.

Appeal B

- Application Ref: ROS P/2018/0776 dated 12 September 2018, was refused by notice dated 3 June 2019.
 - The development proposed is the change of use of land from agriculture to a mixed use for agriculture and practice firing range in association with Field and Falcon gun shop and gunsmiths.
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Decision

1. The appeals are dismissed.

Main Issue

2. The main issue is the impact of the proposed developments on the living conditions of nearby residents with regard to noise and disturbance.

Reasons

3. A complaint in July 2018 led to the discovery of a rifle range and separate clay shooting range at Lodge Farm. The applicant has a shop at Lodge Farm selling firearms and associated goods. The business also provides gunsmith services; repairing, servicing, cleaning and modifying firearms. The appellant argues that, in association with these services, a safe place is essential where guns can be tested, and all firearms must be 'zeroed' to ensure their accuracy.
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4. Both the clay and rifle grounds are used in this way. In addition, the business offers supervised shotgun coaching and allows customers looking to zero their own firearms. Also use of the range for practise and tuition of individuals and groups. The clay ground (0.8ha) is enclosed by a grass bund and has 3 shooting positions comprising of timber huts which can be moved around. The rifle ground (6.7ha) has an elevated shooting hide (5m) in the eastern corner. The hide can accommodate 6 people (3 shooters and 3 spotters). There are three target bunds at around 90m, 180 and 275m from the Hide, each being about 15m long, 2m deep and 1.5m high. In front of each bund is a steel plated target.
5. The appellant has submitted a Noise Plan which proposes that the use of the rifle range and clay ground be limited to 10:00 to 16:00 Monday to Friday and 10:00 to 14:00 on Saturdays. There would be no shooting on Sundays or Bank Holidays. In addition to limiting the use of the facilities as described above, the number of people shooting at any one time would be restricted as would the type of ammunition used. Other measures to reduce noise include using moderated rifles (fitted with silencers) and rifles would be fired inside a baffle box. The appellant acknowledged at the Hearing that not all these measures have been put in place.
6. The Council and the appellant are critical of each other's noise surveys and local residents raise questions about both. The Council's data is derived from equipment placed in local residents' homes and largely left unsupervised by a qualified person. To gauge noise levels outside buildings, measurements were taken with windows open. I acknowledge that the Council's Environmental Health Officer (EHO) heard shots fired from Lodge Farm but the Council concedes that he was not equipped with a sound level meter at that time.
7. The appellant carried out two surveys, measuring noise levels at properties to the north west, east and south west of Lodge Farm. The surveys included the use of different types of shotgun and rifle and different types of ammunition. I note the scepticism of local residents but see no reason to believe that the types of gun and ammunition were not as listed in the surveys.
8. The appellant's consultant fairly accepts that the methodology used was not specifically designed for shooting. However, in the absence of such a methodology the methodology recommended in 'Clay Target Shooting: Guidance on the Control of Noise,' issued by the Chartered Institute of Environmental Health is the best fit and the Council's EHO agrees. Given that the appellant's assessments are based on a recognised and agreed methodology and measurements were co-ordinated with the firing of different types of gun and ammunition, I consider those results should be favoured above the Council's.
9. Having said that the Council's recording of noise levels emanating from the rifle range led the EHO to conclude that noise was not at a level or frequency to result in a statutory nuisance. In light of those findings and the January 2019 survey carried out by the appellant's consultant, the EHO concluded that noise levels were '*within the realms of acceptability*' and officers' recommended the grant of a temporary planning permission for the rifle range. That recommendation was not accepted and the Council states that complaints received since indicate that the decision to refuse to grant planning permission was justified.
10. The Clay Target Shooting guidance seeks to establish a mean shooting noise level (SNL). The guidance says that there is no fixed shooting noise level at which annoyance starts to occur. The guidance suggests that annoyance is less likely to occur at a mean SNL below 55 dB(A) and highly likely at a mean SNL above 65 dB(A).

11. The appellant carried out noise impact assessments in January and November 2019. In January noise was measured at two properties, one around 400m to the south of the site (Receiver 1¹), the other around 900m to the northwest (Receiver 2²). The November assessment added a third measuring point about 540m to the east (Receiver 3).
12. The January test used .22, .223 and .308 bore rifles and a 12 and 20 gauge shotgun and a .401 bore shotgun³. For each bore/gauge an estimated SNL was calculated for the most part using the logarithmic average of the loudest 5 shots. The SNL for the entire shoot was calculated for the most part using the logarithmic average of the loudest 25 shots. At Receiver 1, the estimated SNL for rifles ranged from 47.8 dB(A) to 63.3 dB(A) and the SNL for the entire shoot was 58.1 dB(A). At Receiver 1 the estimated SNL for clay ranged from 50.6 dB(A) to 55.4 dB(A) and the SNL for the entire shoot was 51.8 dB(A).
13. At Receiver 2, the estimated SNL for rifles ranged from indistinguishable to 45.9 dB(A) and the SNL for the entire shoot was less than 44.4 dB(A)⁴. At Receiver 2 the estimated SNL for clay ranged from 41.2 dB(A) to 43 dB(A) and the SNL for the entire shoot was 41.3 dB(A). Further tests were undertaken with rifles fired from within one or two baffle boxes⁵. The use of a moderated rifle and two baffle boxes reduced the estimated SNL of a .308 bore rifle from 65.6 dB(A) to 58.4 dB(A)⁶.
14. The November test used .223 and .308 bore rifles, moderated and unmoderated and a single type of shotgun with different types of ammunition. As the appellant proposes that only moderated rifles would be used and only H shells (subsonic) on the clay ground, the following results only relate to moderated rifles and the use of H shells. At Receiver 1, the estimated SNL for rifles ranged from 59.3 dB(A) to 60.8 dB(A) and the SNL for the entire shoot was 60.1 dB(A). At Receiver 1 the estimated SNL for H shells was 56.7 dB(A)⁷. The SNL for the entire shoot was 64.2 dB(A) but that included different types of ammunition.
15. At Receiver 2, the estimated SNL for rifles ranged from 50.1 dB(A) to 55.8 dB(A) and the SNL for the entire shoot was 53.8 dB(A). At Receiver 2 the estimated SNL for H shells was 50.2 dB(A). The SNL for the entire shoot was 50.4 dB(A) but that included different types of ammunition⁸. At Receiver 3, the estimated SNL for rifles ranged from 60.6 dB(A) to 68.5 dB(A) and the SNL for the entire shoot was 66.1 dB(A). At Receiver 3 the estimated SNL for H shells was 54.7 dB(A). The SNL for the entire shoot was 57.3 dB(A)⁹ but that included different types of ammunition.
16. As stated above, the Clay Target Shooting guidance suggests that annoyance is less likely to occur at a mean SNL below 55 dB(A) and highly likely at a mean SNL above 65 dB(A). It must follow that annoyance is likely to occur at mean SNLs between 55 dB(A) and 65 dB(A). Looking at the November results taken when mitigation was in place, we can see that at Receiver 1 the estimated SNL and entire SLN for rifles was within a range where annoyance is likely. The estimated SNL for clay was just above the 'less likely' threshold. At Receiver 2 all levels for rifle and clay were around or below the 'less likely' threshold. At Receiver 3 the SNL for rifles was within a range

¹ Recorded as 540m in the November Survey.

² Recorded as 820 in the November Survey.

³ The assessment is silent with regard to the type of ammunition.

⁴ Fewer than 25 shots distinguishable over ambient noise levels.

⁵ A baffle box is a hollow box constructed of perforated metal with absorptive mineral wool behind.

⁶ These measurements were taken on land between the shooting ground and Borrás Road and not at Receiver 1 or 2.

⁷ All estimated SNL for H shells is based on the loudest two shots.

⁸ Logarithmic average of the loudest 3 shots.

⁹ Logarithmic average of the loudest 5 shots.

where annoyance is highly likely as was the SNL for the entire shoot. The estimated SNL for clay was just below the 'less likely' threshold.

17. The commentary accompanying the results states that at the residential properties at Receiver 1 and 3 *'shoot levels were easily distinguishable from the ambient noise profile, particularly for larger bore rifles'*. At Receiver 2 the sound of smaller bore rifles was masked by ambient noise levels but shoot noise from larger bore rifles was distinguishable.
18. At my site visit, I witnessed shooting at the rifle range and clay ground. Seven shots were fired at the rifle range; one outside the Hide with an unmoderated .338 rifle and inside, two with a .308 fired at a steel plate target, two with the same gun at a dampened target and two with a .223 at a dampened target (all moderated). Six rounds were fired at the clay ground, two at each position. The first round was a standard shell, the other 5 subsonic. This course was repeated at 4 properties I visited, the appellant co-ordinating with the shooters at each point. Whilst it is not proposed that unmoderated rifles be fired outside the Hide or standard shells used at the clay ground, these shots provided a useful comparison.
19. At Ty Gollen (Receiver 1, January and November '19 surveys) the unmoderated shot outside the hide was unsurprisingly loud. I would not say that the shots from inside the Hide were loud, but they were easily distinguishable above the bird song and dogs barking. The sound of the shots hitting the dampened target were quieter. At Hoseley Bank Cottage the unmoderated shot outside the hide was audible but I struggled to hear the remainder of the course over the bird song which was not interrupted by the shoot. It is possible to see the Hide from Wavertree Cottage (Receiver 2, January and November '19 surveys) but at a distance. The unmoderated shot outside the hide was audible as were the shots fired from inside the Hide and the clay rounds but again, the bird song was much louder. Moorside is not far away from Wavertree Cottage and my observations were similar.
20. At Hoseley Bank Cottage, Wavertree Cottage and Moorside, shots were distinguishable above the ambient noise level but not at a level to have an unacceptable impact on the living conditions of the occupiers of those properties. However, I agree with the Council and local residents that disturbance is not just a matter of the level of noise but also the type of noise. I do not doubt that the sporadic and unpredictable nature of the activity at the rifle and clay shoots has caused annoyance.
21. At Ty Gollen (Receiver 1) my observations confirmed the findings of the appellant's noise surveys that noise from both shoots is at a level where annoyance is likely. I acknowledge that noise levels were not measured and that I was there on one Saturday morning with my observations influenced by the ambient noise levels and wind and weather conditions at that particular time. Further, I am mindful of the EHO's initial findings and recommendations with regard to the rifle range.
22. I have considered the measures suggested by the appellant and the Council¹⁰ including the grant of temporary planning permissions to enable those measures to be tested. However, I heard the noise made by moderated rifles, shots hitting a dampened target and the use of subsonic shells at the clay ground. I consider that the impact of the noise, combined with its startling and sporadic nature over a 3 or 4 hour¹¹ period, 6 days a week would have a seriously detrimental impact on the living

¹⁰ Without prejudice to its case that the appeals be dismissed.

¹¹The number of hours the Council and appellant suggested shooting should be limited to in the discussion regarding conditions

conditions of the occupiers of Ty Gollen. I did not witness shooting from Receiver 3 but the appellant's noise assessment acknowledges that the mean SNL for rifles was within a range where annoyance is highly likely.

23. I conclude, therefore, that the proposed developments would have a detrimental impact on the living conditions of nearby residents and that the proposals conflict with Policy GDP1 of the Wrexham Unitary Development Plan 1996-2011, adopted 2005.

Other matters

24. Foul drainage does not link to a public sewer and the proposed developments would add little, if anything, to the levels of discharge from the site. Consequently, I am satisfied that the proposed developments would not affect phosphorous sensitive Special Areas of Conservation.
25. It is likely that the site is within an area of consideration for a new Green Belt identified in Future Wales. Whilst Green Belt boundaries are to be set in Spatial Development Plans, Future Wales states that major development should not be permitted in 'Green Belt – Areas of Consideration'. Major development is defined, amongst other things, as development on sites of more than 1ha. The field used for rifle shooting is 6.7ha. However, the hide and targets cover a very small area. The site is currently not in a Green Belt and there is no argument that the proposed use is, in principle, acceptable in the countryside. Nonetheless, my findings on these matters do not outweigh the harm described above.

Conclusions

26. For the reasons given above and having regard to all matters raised, I conclude that the appeals should be dismissed.
27. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of building better environments.

Anthony Thickett

Inspector

APPEARANCES

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J Tomlinson	

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