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DEVELOPMENT CONTROL COMMITTEE

Thursday, 29th April, 2021
6.30 pm

DEVELOPMENT CONTROL COMMITTEE

REMOTE MEETING - LIVESTREAM ON YOUTUBE

Thursday, 29th April, 2021 at 6.30 pm

All public meetings are being livestreamed on the Council`s Youtube Channel

SUPPLEMENTARY A G E N D A

MEMBERSHIP OF COMMITTEE

Councillor Frank Cant (Chairman)
Councillor Mark Payne (Vice-Chair)
Councillor Afrasiab Anwar
Councillor Gordon Birtwistle
Councillor Saeed Chaudhary
Councillor Peter Gill
Councillor Sue Graham
Councillor Sarah Hall
Councillor John Harbour
Councillor Alan Hosker
Councillor Mohammed Ishtiaq
Councillor Marcus Johnstone
Councillor Anne Kelly
Councillor Lubna Khan
Councillor Neil Mottershead
Councillor Jeff Sumner

PUBLISHED Wednesday, 21 April 2021

DEVELOPMENT CONTROL COMMITTEE

Thursday 29th April 2021

Late Correspondence/Verbal Reports

AGENDA ITEM 6

Agenda Item 6j

FUL/2021/0573 - Tesco Express, Burnley, Lancashire, BB10 3JB

As set out in the Officer Report, during the determination process an amended noise assessment and details regarding the noise attenuation fence were submitted and a re-consultation period carried out. Following publication of the report, a further two letters of objection have been received from neighbouring properties raising the following concerns:

- There now seems to be a recognition that a noise problem does exist; it has taken ten years of continual nuisance and annoyance for that to happen and the proposed extension will make matters worse.
- The proposed adjacent acoustic fence is unlikely to reduce noise levels significantly. An improvement of 3 / 4 decibels is not sufficient for the loudest impact noises which occur daily and greatly exceed acceptable limits.
- The proposed 3.6m high acoustic fence along the boundary will result in a 4.8m high fence on the neighbouring properties side due to the changes in land levels which will impact upon light and visually feel oppressive.
- The fence will have an adverse visual impact.
- The applicants amended noise report dated 7th April 2021 still goes into detail and relies upon the delivery area to the pub in section 2, with photographs. This is all very misleading and false statements are made re the delivery area to the pub. The delivery area to the pub was at the rear what is now Thieveley View.
- There appears to no further information regarding sound proofing proposed to the extension or sound absorbent material incorporated to the yard area to reduce noise when crates are loaded / unloaded from delivery lorries
- Sound levels are magnified by being reflected from the store gable wall. Consideration should be given to the use and fixture of sound absorbing materials.
- The current delivery protocol has not been effectively enforced or monitored – whose responsible for that? Tesco or the Council?
- 2 special consultants state in writing that deliveries shall be limited between the hours of 09:00 – 17:00 Monday to Saturday with no deliveries on Sundays – yet this has been omitted?
- Articulated lorries are still being scheduled for deliveries on Sundays despite the existing restrictions regarding deliveries

- From the outset Tesco and the Council have known that there is a problem at this site but have consistently refused to act on our complaints and ignored us, A purpose built loading bay would probably be the best and most sensible solution. Whatever work /sound reducing measures need to be put in place need to resolve the current situation once and for all.
- This is a residential area and not commercial or industrial estate and should be respected as such.

One further letter has been received from planning consultant PWA Planning, objecting to the proposal on behalf of a neighbouring resident and have raised the following summarised points:

- Increase in noise pollution;
- As suggested by the statutory acoustic consultee Tony Higgins and the noise assessment recommendation a condition has been proposed restricting delivery times to 9:00 to 17:00 yet this has been ignored;
- Allowing the hours of opening 07:00 to 22:00 represents 5 additional hours than recommended, which represents a 50% increase in the hours; this is not acceptable and will lead to further detrimental impacts upon the amenity nearby residential units, therefore exacerbating longstanding noise pollution issues incurred by the retail unit.
- Visual impact of the fence has greatly been neglected
- Given that the 3.5m acoustic fencing is an essential component which will help to limit the noise created from the proposed development, the development is clearly an over-intensification of the site, which will worsen the current situation for nearby residents and detrimentally impact their amenity and subsequently, their quality of life.
- The fence will cause issues with overshadowing and subsequent losses to residential amenity.
- The trees which abut the site boundary are outside of the applicants ownership and therefore, they have no control over these.
- Multiple residents have raised inaccuracies within the suite of submitted documents.

Officer Comments:

The late comments raise issues which have already been considered in the Report before committee. The amended noise assessment has been assessed by the Council Environmental Health Officer who considers that the submitted information is acceptable. The noise attenuation fence was requested as a pre-commencement condition by the Environmental Health Officer previously, as such to prevent a delay in the construction of the development the application opted to submit the details of said fence prior to a decision being made.

The fence detail has been assessed by the Environmental Health Officer who considers that it would acceptably reduce the noise impact of the site to ensure no adverse amenity impacts.

The fence itself would be sited 9m from the side gable of No. 457 Brunshaw Road due to the orientation and siting of the aforementioned property facing away from the application site. This dwelling is accessed via a driveway down the side of No. 459 Brunshaw Road, this will be the directly adjacent to the proposed fence. This driveway will also separate the proposed fence from the side gable of No. 459 Brunshaw Road.

Taking into consideration the above, it is considered that by virtue of the siting and orientation of No. 457 that the proposed fence would not result in a loss of light to the application dwelling, the fence itself would be sited a sufficient distance from the aforesaid dwelling to ensure it does not have an oppressive feeling. It is acknowledged that it may appear oppressive when travelling down the driveway to the dwelling but given this is an access path it would not affect amenity. No. 457 benefits from an existing garage which abuts the boundary the property shares with Tesco, given that this is detached and is not a habitable room, it is considered it would not lead to an adverse amenity impact.

No. 459 benefits from a number of window openings on the side gable which face towards the application site. Due to the siting of the driveway to No. 457 this gable will be sited circa 14m from the proposed boundary the property shares with Tesco. Given that the windows on the side elevation either serve non-habitable windows or in the case where they do serve a habitable room they are secondary in nature it is considered that the aforementioned dwelling is sited a sufficient distance from the shared boundary to ensure that the proposed acoustic fence does not cause adverse harm to the amenity of the occupiers of No. 459 Brunshaw Road.

Following concerns raised regarding delivery times, the council have worked pro-actively with the agent / applicant. As stated in the main report deliveries were conditioned with S106 agreement associated with planning application APP/2008/0803 to between 07:00 and 22:00. However, within the Tesco Good Neighbour Agreement deliveries were to be between 09:00 and 17:00.

The recommendation of the noise assessment states that deliveries should be restricted to between 9am to 5pm Monday to Saturday with no deliveries on Sundays. Following concerns raised by the officer the agent has agreed to the attachment of a condition restricting deliveries to between these times. The proposed extension is considered to be a minor form of development which will increase and intensify noise to one area of the site. However, it is considered that the proposed acoustic fence will adequately mitigate the noise implications of the site to an acceptable level, which is a view shared by the councils Environmental Health Officer.

Revised Commendation

Approve subject to conditions set out on the main report and additional condition:

Deliveries to the site shall be restricted to take place between the hours of 09.00 and 17.00 Monday to Saturday only and shall not be altered without an application first being submitted to, and approved writing by the Local Planning Authority.

Reason: To protect the amenities of nearby residents and to accord with Local Plan policy SP5 and the NPPF 2019.

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