The Planning Inspectorate

# Appeal Decision

Site visit made on 13 March 2015

**by G Powys Jones MSc FRTPI**

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

**Decision date: 24 March 2015**

**Appeal Ref: APP/W1715/A/14/2229127**
**Unit A, 73 Common Road, Chandler's Ford, Eastleigh, Hampshire, SO53 1ZD**

- 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 Matthew Young Scaffolding Ltd against the decision of Eastleigh Borough Council.
- The application, Ref F/14/74579, dated 4 June 2014, was refused by notice dated 15 September 2014.
- The development is edge protection handrail to existing scaffold racking.

## Decision

1. The appeal is dismissed.

## Preliminary matters

2. The appeal site forms part of a small, established commercial enclave set within a predominantly residential area and is comprised of a two-storey office building and a yard. The site has the benefit of planning permission for scaffold racking (*Ref F/12/70324, dated 26 October 2012*), and the approved covered racks are largely set out on the yard's perimeter. The existence of this planning permission is a material consideration in my determination attracting substantial weight.

3. Judging from some photographs taken when planning permission was granted, a limited amount of storage took place then on the roofs of the covered racks, and the appellant company maintains that the existing planning permission has no restrictions regarding the storage of materials on the roof.

4. Since then, however, the appellants have been obliged to erect lengths of handrail along the edge of the roofs so as to assist in safeguarding the health and safety of employees and adjoining occupiers. It was pointed out to me at the site visit that some of the lengths of handrail had been erected when the appellant took over the site, but I have no means of verifying that.

5. Handrails have been erected alongside the boundaries of properties in Nickson Close, which is a short cul-de-sac of residential properties. The rear gardens of some of the properties back onto the appeal site. As arranged, I viewed the appeal site from within 5 Nickson Close.

6. The appellant, in effect, seeks to retain the lengths of handrail erected, and I shall proceed on this basis.

## Main issue

7. The main issue is the effect of the handrails on the living conditions of the residents of Nickson Close with particular reference to noise, privacy, outlook and visual impact.

## Reasons

8. Although the handrails were erected in the interests of health and safety, it appears to me that judged purely in terms of planning considerations, they would also likely serve to encourage the increased and more regular use of the roofs for storage. Whilst this outcome may be largely inconsequential where the roof abuts the offices, the situation is quite different on the other side of the yard where it abuts the Nickson Close properties.

9. Given the extant planning permission, and the nature of the business, I share the appellants' view that additional noise should not be a significant issue, given that stacking of scaffolding already takes place at a lower level on the boundary with the residential properties.

10. However, as was clearly apparent when visiting 5 Nickson Close, the use of the roof by the firm's employees would result in the residents of No 5 and adjacent properties being badly overlooked at close quarters both in their gardens and within their homes. This could take place at any time given that the 2012 permission placed no limitation on the time and days that the activities in the yard could take place. The degree of potential overlooking is such that it would not only prove intrusive when it occurred, but it would also materially and detrimentally harm local residents' privacy.

11. Moreover, the handrails and materials stacked high above the gardens would appear ugly and oppressive when viewed from the properties concerned. The installation of the trellis fencing by the appellants has not greatly assisted in reducing the harmful visual impact.

12. I therefore conclude that the erection of the handrails would likely encourage the increased use of the roofs of the scaffold stacking areas for storage and that this would harm the living conditions of adjacent residents in Nickson Close by reason of loss of privacy and adverse visual impact.

13. Accordingly, a material conflict arises with those provisions of policies 59.BE and 120.E of the Eastleigh Borough Local Plan Review that, in combination, require development proposals to take full and proper account of the context of the site and to avoid unduly interfering with outlook or cause overlooking, and for employment related development not to cause demonstrable harm to the amenities of the occupiers of nearby housing.

## Other matters

14. Reference has been made to emerging development plan policy, but in view of the Council's recent decisions in respect of the Eastleigh Borough Local Plan (2011-2029), it attracts little or no weight.

15. I have considered whether the use of planning conditions would render the development acceptable, and in this regard I have noted the Council's suggested conditions. The first condition is an attempt to limit the extent of the railing, but I find its provisions to be imprecise. Moreover, the condition would fundamentally alter the nature of the planning permission originally

applied for, and the appellant company has not signified its agreement to the imposition of such condition. In these circumstances, I do not consider that a conditional permission is warranted.

16. All other matters raised in the representations have been taken into account, including the points made by local residents and the Town Council's objection. I have already dealt with the principal planning related points raised. No other matter raised is of such strength or significance as to outweigh the considerations that led me to my conclusions.

*G Powys Jones*

INSPECTOR