Report:

This application has been referred to Committee because it is a controversial site and members have requested the opportunity to consider the application.

The site and its surroundings

1. The development site comprises one of 5 commercial/industrial units within a small, historic industrial site owned by Draper Tools Ltd. Planning permission for this use was first granted in 1959 and the site was in operation prior to permission being granted for the development of Nickson Close in 1963.

2. The unit is 1095.4 sq metres in size and is formed of a concrete based storage yard with scaffolding racking along 3 sides of the yard (north, south and west). A two storey office building sits in the northeast corner of the site, with access via an external staircase to first floor. Parking is provided in front of this unit to the east, along the shared access road/driveway which allows access to the units to the rear.

3. The site is surrounded by residential development, with Nickson Close to the west, and Common Gardens to the east. Numbers 75 and 77 Common Rd sit directly to the south of the development site. The remaining units on the industrial site lay to the north, with the larger unit occupied by Draper Tools siting behind Nickson Close. Residential units are beyond this site to the north.

4. The site boundaries are defined by fencing and trellis with Nickson Close, wall with trellis along the boundary with the Common Road dwellings and a wall separating the site from the unit behind. The boundary along the access road is defined by a line of tall conifer trees. A Lime tree in the rear garden of 77 Common Road provides some screening for the site and a multi-stem Ash tree within the site provides some screening for properties in Nickson Close. Several smaller trees are also located close to the boundary with Nickson Close properties.

Description of application

5. The application relates to the retention of railings to the top of the scaffolding racking. This is intended to facilitate safe access to the roof of the scaffolding allowing continued use for storage of scaffolding equipment.

6. As this application is retrospective, the extent of the railings can be seen on site. These railings run along the edge of the racking to the north and east and are approximately 1.0-1.5m in height (some uprights exceed this height). The railings are formed from scaffolding poles and fixtures.

Relevant planning history

7. Permission was granted for an industrial use in 1959. Since that date, there has been a series of applications for a range of structures across the entire site. Specific to the development site are the following applications:

8. Z/05854/09B/00: Erection of lean-to open front storage blocks for existing workshop, permitted 31/10/1974

9. Z/05854/015/00: Erection of storage building, refused 14/04/1981

10. Z/05854/019/00: Outline: erection of workshops and offices (following demolition of existing buildings), refused 17/07/1985

11. Z/05854/020/00: Erection of workshop and store following demolition of existing building, permitted 09/04/1986

12. Z/05854/021/00: Outline: erection of building for use as workshop and storage, withdrawn by applicant 17/06/1986

13. Z/05854/025/00: Siting of 4no. 20ft x 8ft containers replacing existing nissen hut, refused 28/04/1994

14. Z/05854/026/00: Erection of storage building following removal of existing hut, permitted 11/10/1994

15. Z/05854/027/00: Erection of storage building following removal of existing huts and container, permitted 13/01/1995

16. Z/05854/028/00: Extension to existing workshop - erection of free standing conservatory - provision of nine additional parking spaces, refused 14/06/1999

17. Z/05854/029/00: Extension to existing workshop, temporarily approval 19/08/1999

18. F/12/70324: Retention of scaffold racking, permitted October 2012.

Representations received

19. Six letters of objection have been received and site visits to a number of properties in Nickson Close have been carried out.

20. The representations from residents cite breach of planning conditions related to planning application F/12/70324; in breach of restriction on hours of operation; use of the roof for increased storage; visual impact; employees walking on the roof of the scaffolding and the resultant overlooking and loss of privacy (particular concern for residents with young families); increased noise due to increased levels of storage and potentially increased traffic movements; overdevelopment and intensification of the use; lack of information including the site plan not showing Nickson Close and the height of railings; trellis installed to

obscure the scaffolding racking under the 2012 permission not securely attached; poor external design and layout of racking; existing scaffolding is never full of equipment therefore question need for storage on top of the roof of the scaffolding yard.

Consultation responses

21. Chandler's Ford Parish Council: Objection. Condition 59BE (i) & (vii) and request that the application is referred to the LAC for determination

22. Environmental Health: Thank you for consulting this Service on the above application. I have reviewed the information held by this Service / provided by the applicant and I do not wish to recommend any conditions.

23. I have however included the comments that I have received from discussing the application with the (EH) Commercial team, with regards to Health & Safety.

24. Following a complaint from a member of the public regarding the safety of employees at M Youngs Scaffolding, this service visited the site and established that staff were working at height and that some parts of the elevated platforms were unguarded.

25. The management of M Youngs have a responsibility to ensure that their staff, so far as is reasonably practicable, are protected from risks of falls from height as well as ensuring that objects cannot fall on to staff or members of the public. The result of this meeting was that Mr Young was asked to take steps to ensure that adequate provisions were made to reduce the likelihood of falls (to both staff and objects).

26. A number of options are available to him and a hierarchy of risk reduction should be used in all cases. We also assess suitability of controls using this hierarchy. In this case the ideal would be to stop storing objects at height, thus eliminating the risk of falls by staff and objects.

27. The second most preferable option would be to substitute the need for staff to be at elevated (this had already been done where possible by storing goods on pallets so they can be lowered by forklift) however, some items are not suitable for lifting by fork lift.

28. The next option would be to use engineering controls such as a physical barrier or a man up (a cage attachment for a person to stand in that attaches to the front of a fork lift) and this method was already being used by M Youngs where appropriate.

29. The last two options would both be needed in this case, (administrative and PPE) and these are the least desirable controls; they require staff to follow instruction and put on equipment that takes longer to put on

than it would to carry out the job itself, creating a burden on the business as well as meaning staff are less likely to comply.

30. In all cases the goods must be stored in such a way that they do not a present a falling object risk.

Policy context: designation applicable to site

- Within Built-up Area Boundary
- Within Established Residential Area

Development plan saved policies, emerging local plan policies and SPD's

- Eastleigh Borough Local Plan Review (2001-2011) 29.ES, 59.BE, 120.E.
- Pre-submission Eastleigh Borough Local 2011-2029 S1, DM1, DM7, CF3
- Supplementary Planning Guidance: Quality Places

National Planning Policy Framework

31. The NPPF carried a presumption in favour of sustainable development (para. 14), which incorporates three elements: economic, social and environmental, (para. 7). Planning law requires applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, (para. 11). Should a development proposal accord with the development plan, approval should be given without delay, (para.14).

32. The NPPF considers the need to, 'proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs', a core-principle underpinning decision-making (para.17).

33. The NPPF highlights that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people, (para. 56) and goes on to state that decisions should aim to ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development (para. 58).

Policy commentary

34. The above policies and guidance combine to form the criteria on which this application will be assessed with particular regard to residential and visual amenity, intensification of use, and street scene.

Comment on Consultation Responses

All consultee responses are noted and inform the assessment below.

Comment on Neighbour Representations

The relevant material planning considerations are discussed below. The application relates solely to the retention of railings and therefore issues regarding the scaffolding racking cannot be considered as part of this application.

It is recognised that the submitted information is limited. However, given this is a retrospective application, the development in question can be clearly seen and assessed. While the location plan does omit Nickson Close, the site and its surroundings are familiar to the Local Planning Authority and a number of site visits have been undertaken to properties in Nickson Close. Were planning permission to be granted, a condition could be imposed with regards to the height of the railings.

Assessment of proposal: Development plan and / or legislative background

35. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states: "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

Principle:

36. This is an unusual site, as it forms part of a historic, small industrial estate in very close proximity to established residential properties. However, given the site is located within the urban edge and is an existing use, the general principle of development is accepted subject to compliance with local plan policy criteria.

37. Saved policy 59.BE of the Eastleigh Borough Local Plan 2001-2011 requires development to take full and proper account of the context of the site including the character and appearance of the locality and be appropriate in mass, scale, materials, layout, design and siting. Amongst other criteria, it also requires development to avoid unduly impacting on neighbouring uses through overlooking, loss of light, loss of outlook, noise and fumes. In this instance, policy 29.ES also applies, which states that industrial development which would result in any noise-sensitive premises (such as residential properties) being subject to a loss of amenity by means of an excessive increase in noise and/or vibration exposure, will not be permitted. Policy 120.E relates to extensions or redevelopment of existing industrial units. Such schemes would be supported by policy, provided they cause no demonstrable harm to the amenities and environment of occupiers of nearby existing or proposed housing.

38. Emerging policy DM1of the Revised Pre-submission Local Plan Review 2011-2029 is similar in content and meaning to 59.BE. DM7 deals with pollution and states that development will not be permitted if it is likely to cause loss of amenity through, amongst other forms of pollution, noise or vibration. The plan also contains a site specific policy, CF3, which identifies Common Road Industrial Estate as a site for housing redevelopment. It recognises several issues related to the use of this site including its "uncomfortable proximity to residential properties".

39. This 'non-conforming use' is a lawful use. Whilst this use is considered to be incompatible with its surroundings, and on land which the Council would prefer to see in housing use, there is no guarantee this will be delivered in the foreseeable future and this use may continue indefinitely.

40. The application history on this site is difficult to trace and identifying those consents that have been implemented has not be fully possible. It has not been possible to identify any historic conditions regarding use, time restrictions or open air storage, which the current use may be required to comply with.

41. It should be noted that the use is not restricted to a particular industrial use class (B1, B2 or B8) or a specific activity, therefore the use of the yard as a scaffolding yard (B1) does not require planning permission.

Background:

42. In reviewing historic records, it would appear there has been conflict between the residential and industrial uses on this site since before the 1980s and this persists today.

43. In 2012, following an enforcement investigation, a planning application was submitted to the Local Planning Authority to regularise the erection of scaffolding racking on this site that had been erected without planning permission.

    Due to the lawful use of this site by the scaffolding yard and the lack of restrictive conditions, the opportunities to improve the situation for residents were significantly constrained as any imposed planning conditions would have been required to comply with the six standard tests for planning conditions, set out in paragraph 206 of the National Planning Policy Framework:

    1. necessary;
    2. relevant to planning and;
    3. to the development to be permitted;
    4. enforceable;
    5. precise and;
    6. reasonable in all other respects.

At this time, the material planning considerations raised by residents related to visual impact and noise, with early morning disturbance being a particular issue raised by all respondents. These issues needed to be assessed in relation to the operational needs of the scaffolding company and considered in relation to the aims of the NPPF in securing a good standard of amenity for occupiers and supporting the economic development of the area.

In this case, earlier planning decisions did not restrict the use of the site or hours of operation. This meant the site could be used as a scaffolding yard without breaching planning conditions. The application therefore related solely to the racking and not the operation or permitted use of the yard. The scaffolding racking was erected to enable scaffolding poles and equipment to be stored in an efficient manner to minimise the movement of equipment around the yard.

At this time, the application was assessed on its planning merits and it was considered whether a refusal was justified in planning terms. It was acknowledged there was an impact on the residential amenity for occupiers in Nickson Close, however the removal of the racking would result in stacks of scaffolding equipment being continuously moved around the yard which would greatly exacerbate the existing noise issues. It was therefore considered it was in the interests of nearby residents for the racking to be retained and possible conditions were reviewed to minimise the adverse effects of the development.

In order to minimise the visual impact, discussions were held with both residents and the applicant to reach an agreement regarding the height of the scaffolding racking and the requirement for any screening.

Following these conversations, the application was discussed in some detail with Environmental Health and the Principle Planning Officer for the area to ensure the most appropriate planning conditions were imposed. As discussed with residents, conditions regarding the height of the racking and the boundary treatment were imposed and subsequently enforced.

As part of this debate, consideration was given to a condition preventing items being stored on top of the structure. However, it was apparent from the arrangements within the yard, that the items which were being stored on top of the racking would either need to be stored on top of the racking, or would be constantly being moved to access other equipment, resulting in further, more sustained noise. At the time, the owner indicated the equipment stored on top of the racking would only be used on occasion and Environmental Health considered having staff climbing across the roof of the racking would be a breach of health and safety, dealt with under separate legislation. It was also expected that the slope of the roof on the racking would automatically limit the height of any materials stored on top (in retrospective this has not been the case).

On balance, therefore, it was felt that the impact of limited storage on top of the racking, used occasionally, whilst it had the potential for some visual impact, was preferable to additional equipment being continuously moved around the yard generating further noise and disturbance for residents. Any increase in the height of the racking, including the addition of railings for safe access for the scaffolding staff, would require planning permission, which would allow the LPA to re-consider this issue.

Since this planning permission, the use of the roof of the racking has intensified and, as indicated in the Environmental Health consultation response, railings have been erected to address Health and Safety issues. This planning application has been submitted retrospectively to seek permission for these railings.

Residential Amenity:

44. As discussed above in relation to the 2012 application, this application relates solely to the railings which have been erected and not the operational use of the yard. It is therefore not possible to control the hours of operation, which are the main cause of the objections related to noise, particularly earlier in the morning and at weekends.

45. It is relevant that should residents feel noise levels continue to be excessive, the Council's Environmental Health unit hold powers to deal with statutory noise nuisances. Planning should not impose conditions to control issues that are dealt with under other legislation.

46. However, by granting retrospective permission for the safety railing, permission is implicitly given to allow increased storage of equipment on top of the racking. The limited use of this area of the racking for storage was considered 'the lesser of two evils', by reducing the need to move these items around the yard thereby reducing the associated noise. The increased high level storage and the additional movements of the stored equipment negates any benefit that had previously been secured for residents with regards to noise and increases the detrimental impact on visual amenity for residents in Nickson Close.

47. As such, it is considered the increased storage of equipment on the top of the racking, facilitated by the retention of these safety railings would have a significant detrimental impact on the visual amenity of the residents in Nickson Close. Whilst there is some seasonal screening by several trees around and in the site, it is not considered this is sufficient to mitigate the visual impact of this development.

48. Additionally, the increased movement of high level equipment with the associated noise, results in the increased transmission of noise to residential properties. Due to the height of the racking, this noise is focused at first floor level, thereby affecting use of bedrooms. Whilst the Council's Environmental Health unit have not identified a statutory noise nuisance at this time, which would be addressed under separate

legislation to planning, the increased noise transmission through storage of materials at a high level does have implications for residential amenity as discussed.

49. A number of residents have objected to the development on the grounds of loss of privacy. The retention of the safety railings facilitate employees of the scaffolding company walking around in compliance with Health and Safety regulations. As mentioned above, the occasional use of the racking roof for storage was, on balance, considered to be accepted. This occasionally use would have been limited by the need for Health and Safety regulations to be complied with. However, in order to address the Health and Safety requirements and enable safe use of the roof, the railings have been erected. In doing so, the use of the roof area is implicitly intensified resulting in more employees using the roof and more opportunities for overlooking and the resultant loss of privacy for residents. This loss of privacy has a significant impact on residential amenity.

50. In considering the discussion above, it is considered the retention of edge protection handrailings to the scaffolding racking results in a significant detrimental impact on residential amenity to the occupiers of Nickson Close. The proposal is therefore contrary to saved policies 29.ES, 59.BE and 120.E.

Street Scene:

51. Due to the screening of the site by the residential properties to the south and west and the line of mature conifer trees along the eastern boundary, there are limited views of the railings from the street. Those views that are available, could be reduced by the height of the uprights to the railings being reduced, which could be fairly easily achieved. As such, it is considered the impact on the public realm is not sufficient to warrant a reason for refusal. The visual impact from residential properties within Nickson Close is significant, as discussed above and will form a reason for refusal, in accordance with saved policy 59.BE and 120.E.

Other material considerations

Also of relevance is the Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014, (the Submitted Local Plan) comprising the Revised Pre-submission Eastleigh Borough Local Plan 2011 - 2029, published February 2014; and the Schedule of Proposed Minor Changes, submitted to the Secretary of State in July 2014.

While not yet adopted it does carry weight by virtue of being intended as the current local plan's replacement. With regards to this application, the new policies essentially echo those of the current plan and are not considered to affect the recommendation put forward.

Conclusion

52. In light of the above assessment, it is considered the development does not accord with the saved Local Plan policies, nor it is consistent with the aims of the NPPF. As such, the application is recommended for refusal, as set out above.