

APPEAL BY MRM LOGGING AGAINST THE DECISION OF THE COUNCIL TO INCLUDE A NOISE MITIGATION CONDITION (CONDITION 6) ON A DECISION TO APPROVE APPLICATION 12/00185/COU FOR THE RETENTION OF THE CHANGE OF USE OF LAND FROM AGRICULTURAL USE TO COMMERCIAL USE INVOLVING THE CUTTING, STORING AND SALE OF LOGS, AT LAND AT NETHERSET HAY LANE, MADELEY, NR CREWE

<u>Application Number</u>	12/00185/COU
<u>LPA's Decision</u>	Approved at planning committee on 7th May 2013
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	13th January 2014

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 12/00185/COU) and the following is a brief summary.

The Inspector considered the main issue to be whether the condition in dispute is reasonable and necessary in the interests of the living conditions of neighbouring occupiers, with regards to noise and disturbance. In dismissing the appeal, he made the following comments:

- Whilst traffic and the occasional train could be heard in the background, noise from the site was clearly audible from the rear of nearby housing, as well as from various other locations. The nature of this noise, in particular from the chain saw, was somewhat intrusive. Consequently, the Inspector found that the noise from the site causes a degree of disturbance and found a need to provide appropriate noise mitigation measures.
- Condition 6 requires acoustic fencing to be provided in the locations set out in Plan AS001 (submitted by the appellant). The plan shows substantial noise mitigation measures and includes a table showing that 3 metre high fencing would significantly reduce the amount of noise emanating from the site. Given that the Environmental Health Division considers that "acceptable noise levels cannot be achieved without the attenuation measures being secured and maintained," the Inspector concluded that the proposed noise mitigation measures comprised an essential factor in enabling the appeal site to receive planning permission in the first instance.
- The Inspector also noted that there is an intention to grow the business and were the acoustic fence not constructed and the business were to grow, harmful noise disturbance would occur more frequently and there is no substantive evidence to demonstrate that this would not be the case.
- The Inspector concluded that the condition in dispute is reasonable and necessary in the interests of the living conditions of neighbours and meets the requirements of the National Planning Policy Framework and the tests in Circular 11/95: The Use of Planning Conditions in Planning Permissions.
- Although the appellant has sought to introduce some noise mitigation measures and it is clear that the business is operated in a courteous and respectful manner, these are not matters which, in themselves, lead the Inspector to consider that condition 6 is neither reasonable nor necessary.

Recommendation

That the decision be noted.