
Appeal Decision

Site visit made on 18 June 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Appeal Ref: APP/E2734/W/19/3224954

5 North Street, Ripon HG4 1JY

- 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 Mr Cuneyt Yazicioglu (Barcuda) against the decision of Harrogate Borough Council.
 - The application Ref 18/02127/COU, dated 24 May 2018, was refused by notice dated 6 March 2019.
 - The development proposed is the change of use from Restaurant (use class A3) to mixed use Restaurant and Drinking Establishment (use class A3/A4).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the proposal's description as set out on the Council's decision notice as it better focusses on the development involved. This development has already been carried out. Nonetheless, I have dealt with the appeal on the basis of the development shown on the plans referenced: Site Location Plan, Block/Site Plan and 5 North Street Ripon.

Main Issue

3. The main issue is the effect of the development on the living conditions of nearby residents, with particular reference to noise and disturbance.

Reasons

4. The site is located within North Street, which incorporates a mix of commercial and residential uses including several restaurants and takeaways. It is occupied by built development from its terraced street frontage to the rear where it adjoins a neighbouring car park. The proposed restaurant and drinking establishment are situated to the rear of the building.
5. It strikes me that the character of the area surrounding the site differs somewhat to the hustle and bustle of the Market Place and surrounding streets to the south. Moreover, the transition to residential areas nearby is evident as there are residential uses within North Street and to the north and east of the site. The environment surrounding the appeal site is therefore more discreet and susceptible to change.
6. The background noise readings within the noise assessment submitted by the appellant were taken from one position, at the front of the site, and only on a

week day. There are no background readings for the weekend, when the appellant has stated that the potential for disturbance is more likely. There is not therefore assessment of the noise environment to the rear of the premises, including other potential sources of noise, such as the neighbouring car park or beer garden at the rear of the bar and restaurant at 6 Old Market Place. Furthermore, there are also no background readings from within nearby sensitive receptors or corrected readings from locations close by.

7. Based on the evidence gathered, the noise assessment states that results are inconclusive that the noise generated at the site is the dominant noise source in the vicinity. The main parties were not able to agree on the approach to assess the potential effects of noise from the site. However, my role is to consider the evidence before me in the context of relevant planning policy and other relevant considerations. Similarly, whilst the use may have been in operation for over a year without complaint, I must have regard to the potential effects of the use on existing and future occupiers of nearby properties.
8. Having regard to the evidence before me, I am not persuaded that the noise assessment provides a fully representative picture of existing background noise or for the potential for noise to effect nearby sensitive receptors. I note that the appellant has no objections to a planning condition that would control entertainment sound levels limits. However, without a more comprehensive assessment, mitigation measures that could be required as a result of the stated condition cannot be adequately assessed. Consequently, the evidence does not offer me sufficient clarity and robustness to be able to conclude that the living conditions of residents living nearby would not be unacceptably harmed by noise and disturbance.
9. Therefore, for the reasons outlined above, I conclude that evidence relating to the potential for noise breakout fails to demonstrate that the use will operate without causing unacceptable harm to the living conditions of nearby residents. This would conflict with Policy HD20 of the Harrogate District Local Plan (adopted February 2001) and the Selective Alteration (adopted May 2004) (the LP); and Policy SG4 of the Harrogate District Local Development Framework Core Strategy (2009) (the CS). Together these policies seek to protect and respect the amenities (living conditions) of nearby residents.

Other matters

10. The local planning authority has not raised any concerns with respect to the effects on the character and appearance of the Ripon Conservation Area within which the site lies. I agree that the proposal will preserve its character and appearance and would therefore accord with Policy HD3 of the LP and EQ2 of the CS. Together these seek to protect conservation areas and resist development that has adverse effects. However, this would not outweigh the concerns I have raised above.

Conclusion

11. For the above reasons, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR