The Planning Inspectorate

Appeal Decision

Site visit made on 30 July 2019

by P Mileham BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/R5510/W/19/3227376
The Wheatsheaf PH, 286 High Street, Harlington, Hayes UB3 5DU

- 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 EI Group Plc against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 13392/APP/2018/4174, dated 27 November 2018, was refused by notice dated 21 January 2019.
- The development proposed is described as a new covered area and 1.5m high timber fence to form external drinking area to the rear of the Public House.

Decision

1. The appeal is allowed and planning permission is granted for a new covered area and 1.5m high timber fence to form external drinking area to the rear of the Public House at The Wheatsheaf PH, 286 High Street, Harlington, Hayes UB3 5DU in accordance with the terms of the application, Ref 13392/APP/2018/4174, dated 27 November 2018.

Procedural Matters

2. The application form identified that the work had been completed prior to the point at which the application was made. Therefore, the plans submitted with the application are intended to be a representation of what is already there. There is nothing before me to indicate that there is any discrepancy between the plans and the development, as built, and I have proceeded on the basis that they are an accurate representation. In other words, planning permission is sought for the development as it exists on the ground.

3. The Council has indicated that it is awaiting the Inspector's report on its part 2 Local Plan. I have sought clarification from the Council on the latest position in this regard who have confirmed that the Inspectors Report has not yet been received and the new Local Plan has not been adopted. In those circumstances I attach little weight to any emerging policies having regard to paragraph ??? of the National Planning Policy Framework.

Main Issue

4. The main issue in this appeal is the effect of the development on the living conditions of adjoining residents having regard to the potential increase in noise and disturbance.

Reasons

5. The appeal site comprises the Wheatsheaf Public House which is located on the corner of the High Street and Providence Lane. The High Street contains a small parade of shops, including a takeaway, betting shop and small convenience shop, whilst Providence Lane, which runs perpendicular to the High Street, includes a number of 2 storey terraced properties. These terraced properties look over towards the pub garden and a commercial garage which borders the rear of the pub. The parade of shops is three storeys in height with flats at first and second floor level.

6. The appeal proposal comprises a covered drinking area along with a pergola and 1.5m high fencing.

7. The character of the area is defined mainly by the small but busy shopping parade, with passing traffic and pedestrians. I was able to hear noise from both vehicular traffic from the High Street and aircraft from the nearby Heathrow airport. From the pub garden, I was also able to hear further background noise from the garage to the rear as well as from extraction equipment associated with the nearby takeaway. As such, there is already a significant level of background noise in the area that can be experienced by nearby residents at different times of the day.

8. The outdoor drinking area is relatively compact and contains bench seating under the covered area and picnic tables under the pergola. As such, the compact nature of the rear garden is likely to constrain the number of patrons that would be able to occupy the area at any one time. Therefore, it is unlikely that a significant number of patrons would be able to use the area, and as such, the level of additional noise generated would be relatively modest as a result.

9. The covered drinking area and fencing create a distinctly enclosed space to the rear of the pub. The covered area will provide a limited degree of attenuation from noise. Whilst the background noise levels during the day are likely to be greater on account of surrounding commercial uses it is likely that some noise will be generated beyond the background level during the evening when noise from surrounding uses such as the garage would have ceased. However, the Council's Environmental Health department has not raised concerns regarding the noise impact of the proposal, nor sought additional noise information from the appellant.

10. The appellant has indicated that the pub would be able to use the rear area for drinking in any event as it is part of the wider site area which would form part of its use as a drinking establishment under Class A4 of the Town and Country Planning (Use Classes) Order, as amended. This is a matter to which I attach significant weight as without the addition of the structures, the area could have been made available for use by patrons. From the evidence before me, I consider it likely that the rear of the pub would be used as an outdoor smoking area, even in the absence of the proposed development, because it is the only private space available to the business. Consequently, I agree with the appellant's suggestion that a certain degree of noise would be generated from within the space, regardless of the outcome of this appeal. The structures would make the rear drinking area a more attractive space and as a result, this would likely increase its usage than if the area was simply opened up for use as the appellant's fallback position indicated. However, even taking this into

account I do not consider this would result in a significant increase in noise or disturbance, having regard to the modest size of the space which will, of itself, limit the number of patrons likely to use it at any one time. Consequently, I am satisfied that the development will not lead to an increase in the level of additional noise to a level that would result in harm to the living conditions of adjoining residents.

11. Given my conclusions as set out above I am satisfied that no conditions are necessary to mitigate the impact of the proposed development because the levels of additional noise arising from it would not result in harm to living conditions of adjoining residents, over and above the likely fall-back scenario.

12. In light of the above, I conclude that the development would not result in harm to the living conditions of adjoining residents having regard to the potential increase in noise and disturbance. The proposal accords with Policy OE1(iv) of the Hillingdon Local Plan part two – Saved Unitary Development Plan (UDP) Policies states that planning permission will not normally be granted for uses which are, amongst other things, detrimental to the character or amenities of surrounding properties because of noise and vibration. It would also accord with Policy OE3 which states that buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact is mitigated within acceptable levels by engineering, layout or administrative measures. Similarly, Saved Policy BE21 of the Hillingdon UDP states that planning permission will not be granted for new buildings or extensions which by reason of their siting, bulk and proximity would result in a significant loss of residential amenity.

Other matters

13. The appellants have indicated that the proposal will aid the ongoing viability of the pub. Whilst it is likely that the proposal will have a positive impact in that regard, the weight I attached to the benefit is limited on account of the fact that no supporting financial information is before me.

Conditions

14. Paragraph 54 of the National Planning Policy Framework states, amongst other things, that planning conditions should only be imposed where they are necessary, relevant to planning and the development permitted, enforceable, precise and reasonable in all other respects. The Council had suggested two conditions, the first being a time limit for the commencement of the development, and the second for the development to be carried out in accordance with the submitted plans. However, as the works have been carried out, I am unable to impose the standard condition requiring the timeframe for the commencement of development.

15. Furthermore, in light of the fact the development has been carried out, it is not necessary to impose a standard condition requiring development to be carried out in accordance with the submitted plans, as this has taken place.

Conclusion

16. Therefore, the development will not cause undue harm to neighbouring living conditions and complies with relevant development plan policies in that respect. Having regard to that and all other matters raised, I shall allow the appeal.

P Mileham

INSPECTOR