
Appeal Decision

Site visit made on 17 September 2019

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2019

Appeal Ref: APP/N4720/W/19/3233104

White Rose House, 8 Otley Road, Headingley, Leeds LS6 2AD

- 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 Nik Lowery against the decision of Leeds City Council.
 - The application Ref 19/00550/FU, dated 23 January 2019, was refused by notice dated 27 March 2019.
 - The development proposed is the formation of an external seating area and an associated stair access.
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Decision

1. The appeal is allowed and planning permission is granted for the formation of an external seating area and an associated stair access at White Rose House, 8 Otley Road, Headingley, Leeds LS6 2AD in accordance with the terms of the application, Ref 19/00550/FU, dated 23 January 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. The appellant provided a revised acoustic assessment (dated May 2019) as part of the appeal submission. As the Council and interested parties have had the opportunity to comment on this document during the course of the appeal, there is no possible prejudice. Accordingly, I have considered it in my decision.
3. The Council adopted the Core Strategy Selective Review (2019) during the appeal. In the interests of fairness, the Council and the appellant were given the opportunity to comment on this matter.

Main Issues

4. The main issues are the effect of the proposal on (i) the living conditions of the occupiers of nearby residential properties by way of noise and disturbance; and (ii) anti-social behaviour and crime prevention.

Reasons

Noise and Disturbance

5. The appeal property comprises a public house establishment. The ground and first floors contain bar areas and there are existing external seating areas on its Otley Road frontage and at first floor level. The current parapet roof area where the proposed external seating area would be sited is unused, apart from an area of plant. A large office building is found directly to its rear. The site is

- located in the centre of Headingley, where the uses are predominantly commercial in nature. Otley Road itself is a busy thoroughfare in north Leeds.
6. While the number of residential properties along this part of Otley Road are limited in nature, some of the commercial uses contain flats above. The acoustic assessment identifies this is the case opposite the site, above No 35. The survey work to inform the assessment was carried out on a Friday evening and night-time period, a typically busy time, and measured existing sound levels. The assessment then predicts the noise levels it considers would be generated by the proposal.
 7. Essentially, the assessment comes to the view that due to the existing relatively high sound levels in the vicinity of the site resulting from a high number of vehicles and pedestrians on Otley Road, the noise from the proposal would not be so apparent as to have a significant impact on the living conditions of the occupiers of No 35, subject to mitigation. In considering the assessment and the location of the site, I see no reason to disagree.
 8. Assessing noise is not, though, solely a technical exercise. The subjective nature of noise means that there is not a simple relationship between the noise levels and the impact on those affected. The Council's Planning Officer Report points out there is the potential for a large number of raised voices during quieter evening periods. However, this also needs to be considered in the context of where the site is found. Against the backdrop of what is an already busy commercial area, including well into the evening, and as the appeal property is already in use as a public house, the effects that would result from the likely characteristics of the noise generated would also not be unacceptable.
 9. The proposed mitigation measures include acoustic fencing that would be positioned around the near entirety of the proposed external seating area and would be set back from the parapet on the Otley Road frontage, which faces towards No 35. With its siting close to the source of the noise, the acoustic fencing would be sited where it would be likely to be most effective. The technical details of the fencing are not before me; however, this can be ably controlled through the imposition of a planning condition.
 10. Matters such as restricting the hours of use of the proposed external seating area and preventing music being played can also be controlled by conditions. When these measures are combined with the proposed acoustic fencing, they would be likely to be effective as mitigation against the potential for noise and disturbance. The Planning Officer Report considers operational management plans can be limited in their effectiveness with this type of use and the nature of the noise generated. Nevertheless, the relevant measures would be satisfactorily addressed if what I have set out is controlled through the conditions.
 11. In relation to the broader effects, more distant residential properties in the area are found to the rear of the buildings along Otley Road. With the distances involved, the intervening buildings and the proposed mitigation, the effect on the living conditions of their occupiers would also not be unacceptable.
 12. I conclude that the proposal would not have an unacceptable effect on the living conditions of the occupiers of nearby residential properties by way of

noise and disturbance. As such, it would comply in this regard with Policy P10 of the Leeds Core Strategy (2014) (as amended 2019) (CS) and with 'Saved' Policy GP5 of the Leeds Unitary Development Plan (Review 2006) (UDP) which state that development should contribute positively to quality of life and wellbeing, protect the residential and general amenity of the area and that proposals should seek to avoid problems of environmental intrusion, loss of amenity and pollution, amongst other matters.

13. It would also accord with the National Planning Policy Framework (Framework) where it states that decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life, as well as where it concerns health and well-being.

Anti-Social Behaviour and Crime Prevention

14. The site lies in an area where there are a number of similar drinking establishments that are largely aimed at a sizeable student market, in particular along Otley Road and nearby North Lane. The Council's Cumulative Impact Policy (CIP) in Headingley relates to licencing controls rather than planning, although the evidence it draws on in relation to anti-social behaviour and crime prevention is for my consideration.
15. The Planning Officer's Report sets out that the latest version of the CIP identifies that crime rates remain high in Headingley Town Centre, and that a significant proportion is alcohol related. It is said that the night-time economy is a significant factor in crime rates and beyond what can be considered normal for a town centre location.
16. The proposal is not, though, for a further drinking establishment use. In addition, to gain access to the proposed external seating area would involve passing through 2 floors of the building and so it would not be directly accessible from the street. Where it may attract additional customers, it would also be limited to the times of the year which permit sitting out and when there is not inclement weather. It would also close at 11pm, so its use would not extend into a longer night-time period.
17. When these factors are taken together, I am not persuaded that the increase in the capacity of the venue would be to such a level so as to cause further anti-social behaviour and crime. It would seem to me that if the proposed external seating area would increase the appeal of the establishment, customers may be less likely to move onto other similar venues in its vicinity and, therefore, not appreciably add to instances of undue behaviour between these places, and the associated cumulative impacts.
18. I conclude that the proposal would not be unacceptable concerning anti-social behaviour and crime prevention. Accordingly, the proposal would also comply with Policy P10 of the CS and with 'Saved' Policy GP5 of the UDP in this regard in relation to quality of life, well-being and amenity and where it is stated that development creates a safe and secure environment that reduces the opportunities for crime without compromising community cohesion, amongst other considerations.
19. It would also accord with the Framework where it concerns places that are safe so that crime and disorder, and the fear of crime, do not undermine the quality

of life or community cohesion, as well as on health, well-being and amenity matters.

Other Matters

20. The site lies within the Headingley Conservation Area. As the proposed external seating area, the fencing and the other alterations to the roof would be set back from the parapet, there would be limited visibility of the proposal. In accordance with the statutory duty pursuant to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal would preserve or enhance the character or appearance of the conservation area.

Conditions

21. As well as the time limit condition (1), I have imposed a condition in the interests of certainty in relation to the approved plans (2).
22. I have also imposed a condition concerning the details of the proposed acoustic fencing (3). This is in the interests of protecting the living conditions of the nearby residential properties by minimising noise and disturbance. For the same reason, I have imposed conditions restricting the hours that the external seating area can be used (4) and preventing amplified or other music being played on it (5). The acoustic fencing condition is also required so that it would preserve or enhance the character or appearance of the conservation area.

Conclusion

23. For the reasons set out above, the appeal should be allowed subject to the conditions.

Darren Hendley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2000 Plans as Existing and Proposed, 2001 Existing and Proposed Elevations.
- 3) The development hereby permitted shall not be brought into use until acoustic fencing has been implemented in accordance with details that have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter the acoustic fencing shall be retained at all times in accordance with the approved details.
- 4) Customers shall only use the external seating area hereby permitted between the hours of 09:00 to 23:00 Mondays to Sundays.
- 5) Amplified or other music shall not be played at any time on the external seating area hereby permitted.