



Appeal Decision

Site visit made on 12 June 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2020

Appeal Ref: APP/H1033/W/20/3247013

6 Eagle Parade, Buxton, SK17 6EQ

- 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 Simon Hamadani against the decision of High Peak Borough Council.
 - The application Ref HPK/2019/0211, dated 10 May 2019, was refused by notice dated 27 September 2019.
 - The development proposed is partial conversion of nightclub to form dwelling at rear.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development would provide acceptable living conditions for future occupiers with regard to noise and disturbance.

Reasons

3. The appeal proposal relates to the rear part of No 6 Eagle Parade, which previously formed part of Coco nightclub. The appellant states that this use ceased following a series of noise complaints from the adjoining residential property, and the nightclub is now limited to the ground floor and basement area only. The Council advise that the nightclub currently has a licence to open between 10:00 AM and 04:30 AM.
4. The development would introduce a new dwelling that would share a party wall with the retained nightclub area, and 2 of the bedrooms would be directly above the nightclub. In addition, the existing air conditioning units would be relocated next to one of the proposed bedroom windows. This layout clearly has the potential to generate significant noise and disturbance to future occupiers of the development.
5. No surveys or details have been submitted in relation to the existing noise levels, or any mitigation measures that would be required. Instead, it has been put to me that this matter is capable of being dealt with by way of a planning condition. However, in the absence of appropriate surveys it is unclear what level of noise future occupiers would be exposed to, or the extent of mitigation that would be required. In particular, it is not clear whether it would be possible to install any necessary mitigation measures within the fabric of the existing building. Accordingly, I do not consider that this matter is

capable of being dealt with by condition. I further note that the Council's Environmental Health Officer expressed similar concerns in this regard.

6. Paragraph 182 of the National Planning Policy Framework ('the Framework') states that planning decisions should ensure that new development can be integrated effectively with existing businesses. It further states that existing businesses and facilities should not have unreasonable restrictions placed upon them as a result of development permitted after they were established. In this regard, the appeal proposal could lead to noise complaints being lodged against the nightclub, resulting in further restrictions on its operations.
7. A number of the surrounding buildings have been converted to residential accommodation. However, in the case of the adjoining property in Anton House, the appellant states that the introduction of this dwelling led to noise complaints being lodged, which resulted in changes to the nightclub's operations. Whilst it is asserted that there is an existing apartment directly above the nightclub that has not resulted in any complaints, the precise position and layout of that dwelling, and details of any sound insulation it benefits from, are not before me. It is therefore unclear whether it is directly comparable to the current appeal proposal. Similarly, the layouts of the other examples highlighted by the appellant, and the opening hours of those establishments, are not before me.
8. For the above reasons, I conclude that the development would provide unacceptable living conditions for future occupiers with regard to noise and disturbance. It would therefore be contrary to Policy EQ 6 of the High Peak Local Plan (2016), which requires that proposals achieve a satisfactory relationship to adjacent development. It would also be at odds with guidance in the Framework relating to noise.

Conclusion

9. As set out above, I conclude that the development would result in unacceptable living conditions for future occupiers. Whilst it would create a new dwelling in an accessible location, and would reuse an existing building, that does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR