



Appeal Decision

Site visit made on 14 July 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2020

Appeal Ref: APP/Z4718/W/20/3249721

The Sun, 137 Highgate Lane, Lepton, Huddersfield HD8 0HJ

- 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 Donna Brayshaw against the decision of Kirklees Council.
 - The application Ref 2019/62/92240/W, dated 4 July 2019, was refused by notice dated 3 February 2020.
 - The development proposed is Change of use of derelict land to pub garden/outside space including play area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal site has been operating as a garden and play space associated with The Sun public house since it was granted temporary planning permission under application 2018/92785 in December 2018, for a period of 6 months. All paraphernalia associated with the use was visible upon my visit.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of local residents.

Reasons

4. The area is accessed via an independent gate to the side of the main public house. It is occupied by approximately 6 outdoor bar tables, a mini-golf area to its far end, and a timber climbing frame with slide and other play equipment, as well as differing surface treatments and various decorations. The permission allowed opening hours from 09:00 until 20:00 each night of the week together with a number of conditions including Condition 4 to submit a noise management strategy to the Council for approval. The appellant has duly complied with this condition.
5. The appellant has submitted details of the noise survey undertaken for a period of 20 weeks and this recorded noise levels emitted from the area using a decibel noise meter reader. However, whilst records have been provided, there is no information submitted on the location of the noise monitoring equipment that was used and its accuracy is therefore in doubt. Objections letters to the proposal that comment on noise sensitivity, also lead me to this view.

6. Whilst I appreciate the outcome of the noise survey may demonstrate the site does not generate a noise level that would lead to unacceptable living conditions to local residents, I am nevertheless acutely aware that the site is surrounded on all sides by residential dwellings, and their outside space is within very close quarters to the boundary with the appeal site.
7. I question the effectiveness of a 2m high acoustic fence to one boundary of the garden to control noise levels at the site given there are residential properties to all sides. Furthermore, no signage can reasonably control the behaviours of individuals and the appellant's ability to successfully control external noise levels at the site is also questionable. To uphold the terms of this condition going forward would place a very onerous responsibility on the appellant to manage and control the site.
8. I reason the use of the site will be largely dependent on weather conditions where more use would occur during spells of good weather, and given there is no evidence presented of a limit imposed to the numbers of children and adults who can use the area at any one time, an intensification of noise would increase with increased numbers to the site. Inevitably, noise levels would vary considerably. Its hours of use are also reasonably long and its availability seven days a week would provide little relief to local residents from exposure to noise and disturbance.
9. The proposal would not meet the requirements of the Kirklees Local Plan 2019 Policy LP24 for good design to provide a high standard of amenity for neighbouring occupiers, amongst other considerations, and Policy LP52 to protect the well-being of people from noise pollution, as well as other considerations. It would also run contrary to the National Planning Policy Framework (the Framework) as it would not achieve well-designed places in accordance with Chapter 12. However, I find no conflict would arise between the development and Chapter 15 of the Framework as this relates to conserving and enhancing the natural environment.

Other Matters

10. An on-line petition of over two hundred signatures has been submitted to support the proposal, and I have also considered the individual letters of support. The appellant's commitment to building community integration is admirable and the additional functions The Sun performs is clearly an asset to the community. The role of the Council in their Joint Strategic Assessment is noted. However, none of these factors persuade me that the harm I have identified would be outweighed by the benefits of the development.
11. The Council's Environmental Services section has raised concerns about the continued use, and regardless of whether or not they have directly experience noise from the site, I have reached my own conclusion based on the information before me.
12. Whilst the Framework does promote sustainable development, however at paragraph 127 it also requires development to provide a high standard of amenity for existing and future users, to which I find the proposal conflicts.
13. Other objection matters raised to the proposal require no further assessment as I am dismissing the appeal.

Conclusion

14. For the reasons I have given, the appeal is dismissed.

Alison Scott

INSPECTOR