



Appeal Decision

Site visit made on 21 July 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2020

Appeal Ref: APP/Z4310/W/20/3250528

1 Mill Lane, West Derby, Liverpool, L12 7HX

- 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 Greene King Brewing and Retailing Ltd against the decision of Liverpool City Council.
 - The application Ref 19F/1976, dated 23 July 2019, was refused by notice dated 8 November 2019.
 - The development proposed is erection of external digital LED screen and timber housing.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of neighbouring occupiers with regard to noise and disturbance.

Reasons

3. The appeal proposal relates to an external LED screen at the rear of the Sefton Arms public house. The screen is housed within a timber structure and faces out across a large beer garden to the rear. The screen has already been installed and the appeal is therefore retrospective in nature.
4. The beer garden extends some distance to the rear of the public house and is surrounded by residential properties that front onto Town Row and Marford Road. It appears to be well used and contains a patio area, an external bar, and large areas of seating. The LED screen is around 20 metres from the nearest residential properties (a small block of flats) and is positioned at an oblique angle to them. However, many of the seating areas that offer the best views of the screen are positioned much nearer to these flats and in close proximity to its rear windows and garden area. Customers watching the screen would also be nearer to the back gardens of properties fronting Town Row and Marford Road than the screen itself.
5. It is asserted that customers watching football and other sporting events would be unlikely to generate significant additional noise over and above that associated with the current use of the beer garden area. However, these customers are likely to engage in cheering, shouting, clapping and chanting in response to events on the screen. This would be particularly prevalent during

- high profile or important fixtures and events, which would be likely to draw a larger crowd. In my view, such behaviour would generate far more noise than the current use of the beer garden. This noise would be irregular in character and would be harmful to the tranquillity of neighbouring properties and garden areas. Moreover, football matches and other major sporting events generally take place at the weekend or in the evenings, at a time when neighbouring occupiers are most likely to be at home. Conversely, noise from the screen itself could be controlled by condition and is unlikely to be as significant.
6. The most directly affected properties are likely to be those in the adjoining block of flats, whose rear windows and garden area would be closest to spectators. Whilst the planning permission for these properties (Ref 00F/1583) contained a condition requiring the submission and approval of a scheme of acoustic insulation, no details of those measures are before me. It is therefore unclear whether they would be sufficient to mitigate the increase in noise and disturbance associated with the proposal. Moreover, the rear garden area to those properties would be very close to customers viewing the screen. It is also suggested that planting could be installed at the rear of the site to provide mitigation to properties fronting Marford Road. However, that would take some time to mature, and it is unclear what acoustic benefits this would have.
 7. I acknowledge that football matches and other sporting events would be unlikely to be shown on a daily basis, and that the hours of use could be controlled by condition. In this regard, it is suggested that the screen would not be used after 22:30 on any given day¹. Moreover, poor weather is likely to restrict its use during winter months and at other times. However, the screen is likely to be used at weekends and mid-week during the football season, and during major international tournaments. In my view, this frequency of use would be sufficient to generate a significant level of disturbance to neighbouring occupiers. Whilst indoor screens would also be available to customers, the outdoor screen is likely to be a significant draw, particularly during dry weather.
 8. It is suggested that a temporary consent would enable a 'trial run' for the development. However, I understand that the screen has already operated for a period of time, which led to complaints and correspondence being issued by the Council's Enforcement Team. Accordingly, I do not consider that a temporary permission would be appropriate in this case.
 9. The appeal premises benefits from a licence to use the beer garden area until 23:00 Sunday-Thursday, and to midnight on Fridays and Saturdays. However, licencing operates under a separate regime that is underpinned by other legislation. I therefore attach little weight to the premises licence in the determination of this appeal.
 10. The Council's Environmental Protection Unit submitted comments in response to the application. Whilst these comments do not formally object to the development, from their tone and content it is clear that there are significant concerns. In this regard, they do not provide support to the appeal proposal.
 11. It is asserted that should the appeal fail then the LED screen could be mounted on a mobile housing unit that could be wheeled in and out as required. The appellant states that this would not constitute development and so would be

¹ I note that evening cup ties that go to extra time and penalties may run beyond this time.

beyond planning controls. However, there are no details before me of any such scheme, nor has any Lawful Development Certificate been provided to confirm that it would not constitute development. Moreover, it is unclear that a mobile unit of this size could be successfully moved into this position or around the beer garden without the risk that it would damage the screen. In this regard, I note that the rear patio is stepped in places, is somewhat uneven, and contains numerous obstacles such as chairs, tables, and planters. I therefore attach little weight to the purported fallback option.

12. For the above reasons, I conclude that the development would significantly harm the living conditions of neighbouring occupiers with regard to noise and disturbance. It would therefore be contrary to saved Policy HD18 of the Liverpool Unitary Development Plan (2002). This policy seeks to ensure, amongst other things, that new development does not result in a loss of amenity to adjacent residents.
13. Separately, the Decision Notice refers to Policy UD1 of the emerging Liverpool Local Plan, and the appellant has drawn my attention to other sections of that document. However, from the information before me, it is unclear whether these elements of the emerging plan are subject to unresolved objections, or whether they have been supported by the examining Inspector. Accordingly, I attach only limited weight to them.

Other Matters

14. The appeal site is located within the West Derby Village Conservation Area, which encompasses a historic local centre. The effect of the development on the character and appearance of the conservation area was not a reason for refusal, and the Council do not object to the development on this basis. I further note that the screen is not prominent in views from either Mill Lane or Town Row which are key vistas within the conservation area. Accordingly, I am satisfied that the proposal would preserve the character and appearance of the conservation area, in accordance with national policy.
15. The luminance of the screen could be controlled by condition so that it would not lead to significant glare or light pollution.

Conclusion

16. As set out above, I consider that the development would significantly harm the living conditions of neighbouring occupiers, and would be contrary to the development plan in this regard. Whilst it would be likely to attract additional custom to the pub, and would help to support this business, that does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR