



## Appeal Decision

Site Visit made on 15 June 2021

**by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> July 2021**

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**Appeal Ref: APP/C1950/W/21/3270353**

**The Peartree, Hollybush Lane, Welwyn Garden City AL7 4JJ**

- 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 Darshan Patel against the decision of Welwyn Hatfield Council.
  - The application Ref 6/2019/2621/FULL, dated 11 October 2019, was refused by notice dated 11 September 2020.
  - The development proposed is described as, 'erection of exterior terrace structure for new seating and smoking area, with provision of ancillary wcs and store room'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. I note the Draft Local Plan Proposed Submission August 2016. However, since there is no certainty that the policies within will be adopted in their current form, I attached them limited weight.

### Main Issue

3. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with regard to noise.

### Reasons

4. The site is occupied by a public house and the proposed outbuilding would be located to one side of the existing building adjacent to the beer garden. The building would have a large number of openable windows so that the building could provide for smoking. From the evidence the proposed building could accommodate around 43 seated customers.
5. The site is surrounded on all sides by streets consisting of residential properties, the closest being on Meadway, Leigh Common and Hollybush Lane.
6. Since it would provide shelter, the proposed outbuilding would be likely to result in greater occupancy levels than the existing beer garden alone. In addition, the area on which the outbuilding would be erected is currently occupied by a disused play area. It is likely therefore, that the scheme would result in the area being occupied later into the evenings and by more people than existing.
7. A noise assessment was submitted as part of the appeal which is based on around half of the building's capacity of people speaking with raised voices with a low level of background music and has assumed that the building itself would

not provide any noise screening. It indicates that the scheme would be likely to result in a minimal perceptible increase in noise levels at the closest properties surrounding the site. In addition, since the assessment was carried out during Covid-19 restrictions, the results were based on a lower level of background noise than would be expected during non-Covid times.

8. However, since the proposed outbuilding would include a bar area and toilets, it is likely that the building would provide a focal point for gatherings outside the existing pub building and more people than those seated at tables could occupy the proposed outbuilding. As such, it is reasonable to expect that at certain times more than half of the seated customers could be speaking with raised voices. In addition, as well as people standing in the outbuilding, it is likely that more people than existing would occupy the beer garden as it would provide easier access to the bar and toilets than the existing building. Therefore, while I note that the occupancy of the beer garden is currently unrestricted within opening times, the proposal would be likely to result in an increase of noise that is not accounted for in the noise assessment.
9. The noise level and timing of music being played on the site and the opening times of the outbuilding could be reasonably controlled by a suitably worded condition. I also acknowledge the evidence regarding the separation distance to the surrounding houses. In addition, while I note the evidence regarding anti-social behaviour, this matter has not influenced my overall decision. However, since the noise assessment has not included additional people standing in the proposed building and in the beer garden, it has not been demonstrated that the proposal would not harm the living conditions of surrounding properties with regard to noise.
10. Consequently, the proposed development would have an unduly harmful effect on the living conditions of neighbouring occupiers with regard for noise. Therefore, it would conflict with Policy D1 of the Welwyn Hatfield District Plan 2005 Adopted April 2005 which seeks high quality design.

### **Other Matters**

11. I note concerns regarding the service provided by the Council. However, I have assessed the scheme based on its planning merits and this point has not altered my overall decision.

### **Conclusion**

12. For the reasons given above, the proposed development would conflict with the development plan as a whole and in the absence of material considerations to indicate otherwise, the appeal is dismissed

*R Sabu*

INSPECTOR