



Appeal Decision

Site Visit made on 24 November 2021

by Louise Crosby MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2021

Appeal Ref: APP/V2004/W/21/3275627

Warehouse 13, Kingston Street, Kingston Upon Hull, HU1 2DQ

- 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 P Mele against the decision of Kingston-Upon-Hull City Council.
 - The application Ref 21/00069/FULL, dated 20 January 2021, was refused by notice dated 7 April 2021.
 - The development proposed is change of use of redundant ground floor office space to form bistro / café associated with existing first floor restaurant and external seating area.
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Decision

1. The appeal is dismissed insofar as it relates to the external seating area. The appeal is allowed insofar as it relates to the change of use of redundant ground floor office space to form bistro/café at Warehouse 13, Kingston Upon Hull, HU1 2DQ in accordance with the terms of the application, Ref 21/00069/FULL, dated 20 January 2021, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following 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: J8021-201-C, 202-C, 203-B, 204-B.
 - 3) The development shall be carried out in accordance with the submitted flood risk assessment, including the proposed evacuation procedure.

Preliminary Matters

2. I note that the Council's reasons for refusal relate solely to the external seating area and not to the internal bistro/café. I shall deal with the appeal on this basis.
3. A small internal alteration in connection with the change of use of the office to a bistro/café would require listed building consent, but this is not a matter before me in this appeal which relates solely to planning permission.

Main Issues

4. The main issues in this case are:
 - i) Whether the proposal would preserve or enhance the character or appearance of the Old Town Conservation Area; and

- ii) The effect of the proposed external seating area on the living conditions of the occupants of Warehouse 13.

Reasons

5. Warehouse 13 is a former maritime warehouse, listed at Grade II. It is located on the corner of Kingston Street and Railway Street. It lies within the Old Town Conservation Area. The nearby docks (now a Marina) are located close by. The 7 storey Victorian warehouse was partly demolished in the early 1970s and was converted in the late 20th century. It now contains various uses, including a restaurant, an office and residential apartments.
6. The proposed bistro/café would occupy the current small ground floor office area of the building. It would sit below the restaurant and therefore not adjacent to any residential apartments. It would also be serviced by the kitchen of the restaurant on the first floor. The bistro/café would be very small and therefore the comings and goings would be limited. No external alterations to the warehouse are proposed. I agree with the Council that this element of the proposal would be acceptable.
7. Turning to consider the external seating area, this would be located on the western side of the Marina, east of Railway Street, on a paved area of the Marina that is currently open. Close by I saw there is an enclosed compound. The area adjacent to the Marina has a quiet open character, allowing pedestrians to walk along and enjoy the views of the boats and the nearby historic buildings and their settings. This is part of the significance of this part of the Old Town Conservation Area.
8. The proposed external seating area would introduce a physical barrier between Railway Street and the Marina frontage for pedestrians. It would not narrow the footpath to such a degree that it would prevent the passage of people. Nevertheless it would alter the spacious open nature of this area of the Marina to a detrimental degree and in doing so harm the character and appearance of this part of Old Town Conservation Area and fail to sustain and enhance this heritage asset.
9. The harm to the designated heritage asset would be less than substantial. However, there are no public benefits associated with the use to weigh in the balance, as set out in paragraph 102 of the Framework. Consequently, this part of the proposal would be contrary to Hull Local Plan (LP) 2016-2032 policies 14, 15 and 16 and the guidance in the Framework.
10. In relation to the matter of living conditions, the elevation of Warehouse 13 facing Railway Street contains many windows and French windows with guard rails. It is likely that residents will sit with these open. Indeed, one of the attractions of this location must be that residents can open the French windows and look out over the Marina when the weather is warm.
11. Whilst the apartments are above street level and around 20 metres away, 40 customers would be likely to generate a significant amount of noise. In my opinion the proposal would result in a significant increase in noise levels around this part of the Marina and this would be most likely to be during periods of nice weather when residents are more likely to have their windows and French windows open. Whilst this is a city centre location with other noise sources, including a busy road nearby, the noise of up to 40 customers all competing to

be heard above one another would undoubtedly be heard above the background road noise.

12. Whilst at present there will be some noise from diners leaving the restaurant on Kingston Street or walking along Railway Street, this will be short lived. I realise that this is a city centre location where noise is more likely to occur, but the noise from around 11 tables (40 covers) of diners would in my view result in a far more severe impact on living conditions because of the potential numbers of people, in combination with the length of time the noise would occur.
13. Even with conditions restricting the hours of operation from 10am to 10pm from Monday to Saturday and from 12pm to 8pm on Sundays these are long periods of time to have to endure potential noise nuisance. As such, I find that the proposal would be harmful to the living conditions of the occupants of Warehouse 13, as a result of unacceptable noise and disturbance. As such, the proposal would conflict with LP policy 14.
14. I am aware that there are other external dining areas in the area, including the one outside Solita, however I have dealt with this case based on the evidence before me and my observations at my site visit.
15. Overall, I find that this element of the proposal would be unacceptable for the reasons I have outlined above.

Other Matters

16. Turning to consider the concerns of residents in relation to the internal bistro/café, how staff and customers use the internal stairway and matters of safety within the building are not planning matters, some of this would be dealt with by other legislation. In terms of noise arising from the bistro/café use within a small area of the existing building, this is unlikely to give rise to any nuisance for local residents because of the low-key nature of this business.

Conditions

17. In addition to the standard time condition, a condition is necessary to ensure the internal bistro/café is created in accordance with the submitted and approved plans. Due to the flood risk in this area a condition is also necessary to ensure the submitted flood risk assessment and evacuation procedure are complied with, in the interests of safety.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

Louise Crosby

INSPECTOR