



Appeal Decision

Site visit made on 25 January 2022

by C Megginson

an Inspector appointed by the Secretary of State

Decision date: 15th February 2022

Appeal Ref: APP/E2734/W/21/3286504

Bilton Cricket Club, Bilton Lane, Harrogate, HG1 3DQ

- 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 J Blackburn against the decision of Harrogate Borough Council.
 - The application Ref 21/03630/FUL, dated 7 August 2021, was refused by notice dated 4 October 2021.
 - The development proposed is described as 'retrospective application for the installation of a smoking shelter'.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a smoking shelter at Bilton Cricket Club, Bilton Lane, Harrogate, HG1 3DQ in accordance with the terms of the application, Ref 21/03630/FUL, dated 7 August 2021, and the plans submitted with it (BCC.001, Construction Steps 1-6 and plan drawing)

Main Issue

2. The effect of the development upon the living conditions of the occupiers of the neighbouring residential property at 141 Bilton Lane, with particular regard to noise and smoke.

Reasons

3. Bilton Cricket Club is surrounded by housing and is accessed directly from Bilton Lane. The main pavilion is set into the site, behind the cricket club's car park. Houses are located on either side of the car park, fronting Bilton Lane.
4. The main entrance to the pavilion is situated on the west side of the building and features a large canopy over the entrance door. The smoking shelter is in place and is located a short distance from the main entrance, adjacent to the garden hedge for 141 Bilton Lane. This side of the building then leads onto the main access gates to the cricket ground.
5. The shelter comprises a metal frame and clear Perspex panels. It is open at the bottom and the front, apart from a central Perspex panel in the middle of the front elevation and it has an opaque curved Perspex roof.

6. The main dwelling at 141 Bilton Lane lies adjacent to Bilton Lane at the front of the plot and has a large rear garden. The boundary with the cricket club runs to the side of the dwelling and along the full length of the garden. As you move along this boundary, from front to rear directly adjacent to the boundary hedge, are recycling facilities to the front, followed by car parking spaces and the main gates to the cricket ground to the rear. Along the rear garden boundary, inside the cricket ground are a group of outside dining tables. At the time of my site visit the main commercial waste bins were also located on the side boundary adjacent to the smoking shelter.
7. As a result, there are a number of noise generating uses already along this boundary. The main entrance to the pavilion is also located near the boundary and this location will experience varying noise levels as people enter and exit the cricket ground, the pavilion and the car park. I consider that the smoking shelter is conveniently located a few steps away from the entrance to the pavilion to encourage its use. If it were not in this location it is reasonable to assume that people would continue to gather in this area to smoke, and in bad weather congregate under the main entrance canopy. Therefore, based on my findings, I consider that the addition of the smoking shelter would have a minimal impact on the existing and previous likely noise levels experienced by the neighbouring property.
8. Whilst the location of the smoking shelter has moved the source of noise and smoke from its users slightly closer to the dwelling and the garden area, this distance is not significant enough to impact noise levels. Also, whilst I recognise that the structure will provide a focal point for smoking, this will, as the Council recognise, also benefit non-smokers entering the building who previously would have had to walk through the smokers gathering under the entrance canopy.
9. The Council have questioned the acoustic properties of the plastic panels in terms of noise resonance and have noted that the shelter must meet the 50% rule. It is reasonable to assume that the solid back of the shelter will have some beneficial effects in terms of noise. The exact proportions of the shelter would be covered under regulations related to environmental health.
10. The solid wall and roof will also have a beneficial effect in terms of any drifting of smoke. Furthermore, there is also a dense hedge behind which will also have beneficial effects in this regard.
11. Consequently, I am satisfied that the development does not harm the living conditions of the occupiers of the neighbouring residential property at 141 Bilton Lane, with particular regard to noise and smoke. The scheme is compliant with Policy HP4 of the Harrogate District Local Plan (2020) and the National Planning Policy Framework ('The Framework'), which seek to protect the amenity of occupiers and neighbours of adjacent property.

Conditions

12. The Council have recommended a condition is imposed concerning submitted plans and documents. I have incorporated this into my formal decision above. In the interests of clarity I have not included the CIL form or Planning Statement in this regard as I do not consider it necessary.

Conclusion

13. For the reasons given above, having considered the development plan as a whole and all other relevant matters, I conclude that the appeal should be allowed.

C. Megginson

INSPECTOR