
Appeal Decision

Site visit made on 31 August 2022

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2022

Appeal Ref: APP/X3540/W/22/3291513

**The Waterfront Cafe, The Granary, Tide Mill Way, Woodbridge, Suffolk
IP12 1BY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Patricia Goodwin against the decision of East Suffolk Council.
 - The application Ref DC/19/0982/VOC, dated 6 March 2019, was refused by notice dated 4 August 2021.
 - The application sought planning permission for use of premises as a tea room with take-away facilities (Retrospective Application) without complying with a condition attached to planning permission Ref C99/0882, dated 7 March 2000.
 - The condition in dispute is No. 7 which states that: The premises shall not be open to the public other than between the hours of 10am and 4.00pm and all members of the public shall have vacated the premises by 4.15pm, unless otherwise agreed in writing by the local planning authority.
 - The reason given for the condition is: In the interests of amenity and the protection of the local environment.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The condition over which there is disagreement relates to the use of part of the ground floor of The Granary as a tea room. The appellant sought to vary condition No. 7. The application sought to vary the opening hours permitted under C99/0882 to allow opening hours of 08:00-24:00 everyday.
3. However, the appellants appeal statement clarifies that revised opening hours are sought on the basis of a revised condition which would read 'The premises shall not be open to the public other than between the hours of 9.30am and 10pm (or 8pm) and all members of the public shall have vacated the premises by 10.15pm (or 8.15pm)'. I shall consider all options.
4. The evidence indicates that a further application was made to that above, Ref C/00/0633. This appears to have permitted extended opening hours at the unit, allowing for opening hours of 09:30-18:30 Monday to Friday and 10:00-17:30 on Sundays and Bank Holidays. There appears therefore to be a permission in place which permits extended opening hours above the original hours and I will consider the extended opening times requested against this background.

5. The main issue therefore is whether the condition with its current restrictions is reasonable and necessary in the interests of the living conditions of the occupiers of dwellings located within The Granary, having particular regard to noise and disturbance.

Reasons

6. The tea room occupies a small ground floor unit in The Granary which is a historic grade II listed building, looking out across the River Deben and which appears to be primarily in residential use above ground floor level. The building is within the Woodbridge Conservation Area and the River Deben estuary, directly adjacent to the site is a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar site.
7. The building is located to the south east of the Town Centre and somewhat detached from the commercial centre of Woodbridge by the railway line to the north west of the building.
8. The unit within which the tea room is located is reasonably small, does not have high ceilings and has limited window openings. It is likely that during summer months the doors would be largely open, or at least regularly opened and shut. Residential occupiers of the Granary could therefore suffer harm to their living conditions as a result of noise from the internal area of the café and as a result of customers using the outside area as well as a result of comings and goings.
9. The evidence does not include details of the level of soundproofing between the unit and adjoining residential properties, which share a close relationship with the unit with some apparently residential windows placed only a limited height above and to the side of the entrance to the unit.
10. There does appear to have been development within the area in more recent times. Retail and dining venues occupy modern units on the nearby Whisstocks Boatyard development and the Chandlery Building. These developments include businesses that have opening hours running much later into the evening than those permitted at the Waterfront Café.
11. Residential development appears to be included in and around Whisstocks Boatyard. There appears to be outside seating at many of the venues and the Chandlery Building appears to incorporate an outside seating area to its south-eastern side.
12. However, most noise and disturbance that could be associated with businesses at Whisstocks Boatyard would be likely to be contained in and around the open space behind the Chandlery. Whilst the venue within the Chandlery does have outside seating, this is set back behind the flood wall and has a degree of set-off from The Granary. There is unlikely to be any significant overspill of activity or movement of people past the front of The Granary, as the access past the front of the building amongst other things primarily serves a private marina located to the east.
13. Further, it is likely that given the age of the buildings in and around Whisstocks Boatyard, modern and purpose constructed soundproofing could exist between the commercial and residential elements.

14. I do not therefore find that these developments justify the proposal before me. Extending the opening hours into the evening, even until 8pm, would coincide with times when residents within the Granary could reasonably be expecting to settle in for the evening and have quiet enjoyment of their homes. Equally, residents could expect to be able to enjoy the same on Sunday mornings or bank holidays prior to the current permitted opening times.
15. I therefore conclude that given the close proximity of existing properties within The Granary to the appeal unit, the condition is necessary in the interests of the living conditions of the occupiers of adjoining properties. Without complying with condition no.7 the proposal would conflict with Policy SCLP11.2 of the Suffolk Coastal Local Plan (2020). Amongst other things it states that when considering the impact of development on residential amenity the Council will have regard to noise and disturbance. Development should not cause an unacceptable loss of amenity for existing occupiers of development in the vicinity.

Other Matters

16. I accept that the reason behind the imposition of the original condition could possibly be considered broad. However, it would not be unreasonable to assume that it at least in part related to living conditions at The Granary. The Council have detailed their clear concerns within the delegated report and appeal statement. In any event, my consideration of the appeal is based on present circumstances at and around the site. Further, the condition meets the six tests outlined in paragraph 56 of The Framework¹.
17. I have been supplied with and taken account of a previous appeal decision relating to an extension of opening hours dating from 2006 (Ref APP/J3530/A/05/1190146) which was dismissed. Given the changes that appear to have taken place within the area I have afforded limited weight to this previous decision.
18. I acknowledge that the extended opening hours would make a contribution, albeit limited, to local economic growth. Nevertheless, the harm I have found would significantly and demonstrably outweigh this modest benefit.
19. The appeal site is located directly adjacent to the River Deben estuary, identified as an SSSI, SPA and Ramsar site. However, there is no need for me to further consider any implications in relation to these designations given that I have found the proposal unacceptable for other reasons.
20. I note the concerns of the appellant over the varying responses from the Council's Environmental Protection Team. This is perhaps a matter to take up through the Council's own complaints process should they so wish.

Conclusion

21. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR

¹ National Planning Policy Framework 2021.