



Appeal Decision

Site visit made on 2 November 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2022

Appeal Ref: APP/G2245/W/22/3290548

The Honey Pot Cafe & Tearooms, 4 High Street, Shoreham TN14 7TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Ms Pauline Strickland of The Honey Pot against the decision of Sevenoaks District Council.
 - The application Ref 21/02893/FUL, dated 1 September 2021, was approved on 5 November 2021 and planning permission was granted subject to conditions.
 - The development permitted is for a 'small wooden/plastic roof covering patio area. Outside seating area. String of decorative fairy lights.'
 - The conditions in dispute are Nos 1 and 2 which state that: "*1. The outdoor seating area hereby approved shall be used during the hours of operation of the tea room only and shall not be used outside 09:00 to 17:00 hours daily; 2. The lighting hereby approved shall be used during the hours of operation of the tea room only and shall not be used outside 09:00 to 17:00 hours on any day.*"
 - The reason given for the conditions is: "*To safeguard the residential amenity of neighbouring occupiers in accordance with Policy EN2 of the Sevenoaks Allocations and Development Management Plan.*"
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Decision

1. The appeal is allowed and the planning permission Ref 21/02893/FUL for a 'Small wooden/plastic roof covering patio area. Outside seating area. String of decorative fairy lights' at The Honey Pot Cafe & Tearooms, 4 High Street, Shoreham TN14 7TD granted on 5 November 2021 by Sevenoaks District Council, is varied by deleting conditions 1 and 2 and substituting them for the conditions below:
 - 1) The outdoor seating area hereby approved shall be used during the hours of operation of the tea room only and shall not be used outside 09:00 to 18:00 hours on any day.
 - 2) The lighting hereby approved shall be used during the hours of operation of the tea room only and shall not be used outside 09:00 to 18:00 hours on any day.

Background and Main Issue

2. Planning permission was granted in 2021¹ for the use of the outside area of 4 High Street for seating associated with the established café. This permission included an open-sided roof covering and outdoor lighting, comprising fairy lights. The permission has been implemented.

¹ Reference 21/02893/FUL

3. The planning permission included conditions limiting the use of the outdoor seating area, and the associated outdoor lights, to between the hours of 09:00 and 17:00 daily. The reason given for the conditions is to safeguard the residential amenity of neighbouring occupiers.
4. The appellant wishes to modify the conditions to extend the use of the outside area, and the associated outdoor lighting, by a further hour in the evening, until 18:00 hours. This is sought to allow the business to remain open later and, in respect of the lighting, for security reasons in darker winter months. The modified hours would be between 09:00 and 18:00 daily.
5. The main issue is the effect that varying the conditions would have on the living conditions of the occupiers of nearby residential properties, with particular regard to noise and disturbance.

Reasons

6. The appeal site comprises a café and tearoom located within the centre of Shoreham. An outdoor seating area exists to the side of the building. It fronts onto High Street, which contains a handful of commercial and community premises including public houses, a village shop, a small museum and village hall. Nevertheless, the street consists predominantly of residential uses, including one directly adjacent to the outdoor seating area and others facing onto the site. The property adjacent to the site has no windows which face onto the side. A close boarded timber fence separates the two sites.
7. During my late morning site visit I observed a number of pedestrians passing the site, as well as a reasonably well trafficked road. This, in all likelihood, would be busier during the weekends.
8. I acknowledge that there would be the potential for an increase in noise breakout arising from customers using the seating area as a result of the proposal, together with an increase in comings and goings more generally. The Council also contends that customers may congregate in the street near the café.
9. However, the seating area, which was previously permitted to open until 17:00 hours each day, is limited in size. The number of people that could be accommodated at any one time within this area is therefore limited.
10. Moreover, other businesses, including a village shop and public houses, exist within High Street. Although the exact circumstances of these sites relative to their neighbours may not be directly comparable with the appeal site, there would likely be reasonable levels of activity from vehicular and pedestrian movements along High Street at around 18:00 hours. The impacts of one additional hour of operation from 17:00 to 18:00 hours would be limited by reason of the short additional time period.
11. Furthermore, there is no substantive evidence before me to demonstrate that excessive levels of noise or disturbance have resulted from the use of the café or the outdoor area to date, nor that this would be the case by extending the hours of operation until 18:00 hours.
12. In respect of customers congregating outside the premises, this could occur whether or not the outdoor area was in use, and would be connected with the main established café use. There is no substantive evidence before me that

indicates that there would be significant levels of congregation within that additional hour proposed. In any case, the frequency and audibility would unlikely be significant given the time of day the outdoor area would be used.

13. In respect of the use of the outdoor lighting, the Council acknowledges that fairy lights have low brightness levels and consequently limited impacts in terms of light spillage. I have no substantive evidence before me to indicate that the use of lighting at the appeal site would have an unacceptably harmful impact on the living conditions of nearby occupiers.
14. For these reasons, I conclude that the proposal would not result in unacceptable harm to the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance. The proposed development would accord with the relevant provisions of Policy EN2 of the Sevenoaks Allocations and Development Management Plan (2015), which in summary seeks to safeguard the amenities of existing and future occupiers of nearby properties, including in respect of excessive noise and activity.

Other Matters

15. The site falls within the Shoreham Conservation Area (CA). As such, statute² places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA lies, insofar as this appeal is concerned, in its historic linear development along two main streets, maintaining a rural and verdant character, and containing buildings of small scale.
16. There is no dispute between the Council and appellant in respect of any harm to the character or appearance of the CA as a result of the proposal. Based on the evidence before me, and my observations on site, I have no reason to disagree with those findings and I find no harm in respect of the character or appearance of the CA, its significance would therefore be preserved.
17. Nearby Holly Place, Reed Beds, 1 High Street and a row of almshouses, referred to by the Council, are Grade II listed. As such, statute³ places a duty on me to have special regard to the desirability of preserving those listed buildings or their settings or any features of special or architectural historic interest.
18. The listed building positioned nearest to the site is 1 High Street, an eighteenth century two storey property of red brick with bay windows at ground floor level. The building is best viewed from High Street and from the junction with Church Street. This property, like all of the nearby listed buildings, is set within its own plot. Those other properties are also best viewed from High Street, or in the case of Reed Beds, from Church Street.
19. There is no dispute between the Council and appellant that either the significance or setting of the listed buildings would be harmed by the proposal. The appeal site is somewhat discrete from these buildings, viewed only in close proximity. It is modest in scale and set within a row of established, unlisted properties along High Street. Based on the evidence before me, I have no reason to disagree with those findings. As such, the proposal would preserve the special historic interest and setting of the listed buildings.

² Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

³ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

20. I note the representations made by the occupiers of neighbouring properties and others at the time of the planning application. I have dealt with matters relating to the effect on both living conditions and heritage assets above. In respect of the issue of odours, such matters would principally be connected with the established café use and would not be directly or significantly altered by the proposed change in hours. As such, and given that there is no substantive evidence before me to demonstrate harm in this respect, and noting that the Council have no objection on this basis, there would be no unacceptably harmful impact on occupiers of neighbouring properties.
21. In respect of highway safety, parking provision, privacy, outlook, daylight and the Area of Outstanding Natural Beauty in regard to design and lighting, the Council considered these matters previously. In granting planning permission, the Council found the proposal to be acceptable in those respects. From the evidence before me, I have no reason to disagree with those findings. Issues raised including leaking guttering, maintenance, the overhanging of a flag, alleged damage to gardens and members of the public accessing private property are private matters.
22. I note comments in relation to the original permission for the established café, restricting the use of the outdoor area for seating. However, the permission granted by the Council has allowed for such a use, through legitimate procedures. Neither this, nor the matters above, lead me to an alternative conclusion on the main issue.

Conditions

23. The proposal would not result in unacceptable harm to the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.
24. I have imposed conditions restricting the hours of opening of the outdoor area, and those of the hours of operation of the outdoor lighting, to between 09:00 and 18:00 hours daily. These conditions are necessary to ensure that unacceptable noise, disturbance or lighting would not occur in the later hours of the evening, when a generally quieter noise environment could be expected. The conditions would therefore safeguard the living conditions of the occupiers of neighbouring properties.

Conclusion

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed.

A. Price

INSPECTOR