



Appeal Decision

Site visit made on 2 May 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2023

Appeal Ref: APP/G2245/W/22/3305610

Halfway House, London Road, Sevenoaks, Kent TN13 2JD

- 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 Mr T Kinghorn (Kippington House Ltd.) against the decision of Sevenoaks District Council.
 - The application Ref 22/01278/FUL, dated 4 May 2022, was approved on 21 July 2022 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a covered outdoor seating area.
 - The condition in dispute is No 3 which states that: *The hereby approved outdoor covered area shall not be used for eating, drinking and socialising after 21:00 hours on any day of the week.*
 - The reason given for the condition is: *To protect the amenity of neighbouring residents in accordance with policy EN2 of the Sevenoaks Allocations and Development Management Plan.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission 22/01278/FUL (the approved application) allows for the use of a covered outdoor area to the rear of the public house until 21:00 hours on any day of the week. This condition was imposed by the Council to protect the amenities of the residents of neighbouring properties. The appellant wishes to remove this condition (No 3) to allow for the use of this area without any conditioned time restriction.
3. The main issue is therefore the effect that removing condition 3 would have on the living conditions of the occupiers of nearby properties, with particular regard to noise and disturbance.

Reasons

4. The Halfway House is sited on London Road, a main road into Sevenoaks, and has a rear covered amenity area that lies directly next the rear garden of No 1 Quarry Cottages, and end of terrace property. The site is neighboured to the west by a Lidl store and there is a large car park area to its rear.
5. The approved application for the covered outdoor area was subject to 3 separate conditions restricting its use in order to protect the amenities of the occupiers of neighbouring properties. These relate to no televisions or amplified music (condition 2), hours of operation (condition 3) and the requirement for a noise assessment and management plan (condition 4).

6. I note that condition 4 has been discharged, and a noise assessment and management plan submitted to and approved by the Council. This noise assessment¹ and management plan make it clear that the assessment is based on the restricted opening hours. Therefore, its conclusions relating to existing ambient noise levels and predicted noise levels do not include the existing and proposed noise levels after 21:00 hours, where background ambient noise such as traffic noise is generally reduced and noise from the outdoor area may be greater. As such, the approval of this document, in addition to the measures set out in the management plan such as the placement of signage, does not itself negate the need for the disputed condition.
7. The outdoor covered area that is the subject of this appeal (the appeal site) sits next to an existing established outdoor area. Whilst this area has no restrictions, the appeal site is larger in size and, as the appellants acknowledge, more customers would create more noise and it does not follow that increased impact in this respect would be acceptable.
8. No 1 Quarry Cottages and its neighbours are of a size that could accommodate a family, which would be sensitive to noise and disturbance in the late evening when the background noise is reduced. From what I observed therefore regarding the proximity of the outdoor area to the residential property, I have no reason to conclude that the conditions protecting the amenity of the occupiers of this property and its neighbours are not necessary.
9. Moreover, I note that the approved application received a number of objections, including in relation to increased noise and nuisance, and the Council's Environmental Health Officer sets out that complaints have been received in relation to noise nuisance from the outdoor rear area.
10. There has been no compelling evidence presented to me to indicate why the hours of operation in the condition are unnecessary. In the absence of the disputed condition there would be no limit on the timeframe for noise emanating from the covered outdoor seating area experienced at nearby properties when people may reasonably expect a quieter time to relax and sleep.
11. I note that letters of support have been received for the proposal, however this does not lead me to a different conclusion on the main matter.
12. I recognise the objective to secure a commercially workable business and that sustainable economic development is supported by the National Planning Policy Framework (Framework). However, that objective must be balanced against ensuring a high standard of amenity for neighbouring occupants, which is also an objective set out in the Framework. Furthermore, there is no substantive evidence before me to demonstrate that the restriction seriously effects the viability of the outdoor area as alleged by the appellant.
13. Therefore, I conclude that the disputed condition continues to serve a useful purpose and remains necessary as without it the proposal would cause harm to the occupiers of nearby properties with regards to noise and disturbance. It would fail to accord with Policy EN2 of the Sevenoaks Allocations and Development Management Plan (2015), which requires proposals to safeguard the amenities of occupiers of nearby properties.

¹ By Syntegra Consulting, September 2022

Conclusion

14. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be dismissed.

B Phillips

INSPECTOR