



Appeal Decision

Site visit made on 10 October 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2023

Appeal Ref: APP/P4415/W/23/3317968

17 Brinsworth Lane, Brinsworth, Rotherham S60 5BS

- 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 Kevin Edwards of Stop Inn Time against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2022/0982, dated 28 June 2022, was refused by notice dated 6 October 2022.
 - The development proposed is described as “outside under cover seating area”.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application form states that the development has been completed and at the time of my site visit the external seating area, canopies and structures were in-situ. The development is therefore retrospective.
3. Due to the absence of the “Assessment of the Emissions of Sound from the Rear External Seating Area at the Stop Inn Time Public House, 17 Brinsworth Lane, Brinsworth, Rotherham” dated 13 September 2022 and prepared by Druk Limited¹ (‘the Noise Survey’), and the failure of the appellant to provide a copy after repeated requests, I subsequently obtained a copy from the Council’s website.
4. There is a discrepancy between the site address on the planning application form and the appeal form. However, it is clear from the information before me and following my site visit that the outdoor seating area extends behind 17-21 Brinsworth Lane and not just No 17.
5. Accordingly, I have determined the appeal on the basis of the above matters.

Main Issue

6. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular reference to noise and disturbance.

Reasons

7. The appeal site forms part of a two-storey terrace fronting onto Brinsworth Lane that comprises part of Brinsworth Local Centre. The terrace is occupied by commercial/retail premises to the ground floor, with some residential flats

¹ Ref: DRUK/ACC/RS/KESITBLB/3083

above. The area beyond the Local Centre is predominantly residential, consisting of two-storey semi-detached dwellings.

8. The appeal site comprises an external seating area to the rear of 17-21 Brinsworth Lane that, from the information before me, is associated with the use of a public house (The Stop Inn) and a Café/Bistro (Stop Inn 21). It comprises tables and chairs, some of which are beneath opaque canopies and on raised platforms, and a building that is used as a function room. The flats above the commercial/retail units have windows serving frequently used rooms that overlook the seating area. While to the rear are the private garden areas of the semi-detached dwellings fronting Pringle Road.
9. The submitted Noise Survey states that the calculations are based upon a worst-case clientele noise level of 40 patrons. However, the Noise Survey states that within the three areas annotated as External Seating Area: 1, 2 and 3, a total of 52 seats are available. Therefore, it is unclear why the Noise Survey is based upon a figure of 40 patrons. Furthermore, the Noise Survey does not account for the function room or for any patrons who may choose to stand within the ample space between the tables. Additionally, the outdoor seating area to the rear of No 21 is excluded from the Noise Survey, whereby further tables and chairs were sited at the time of my site visit and further space was available for patrons to stand. I therefore consider that the number of people who could use the outdoor seating area has been substantially underestimated and the potential use of the function room has not been accounted for. Consequently, I disagree that the results presented within the Noise Survey are based upon a worst-case clientele noise level for the development.
10. The Noise Survey concludes that the transmission of noise from the outdoor seating area to the nearby residential dwellings on Pringle Road would comply with adopted design guides. However, the occupiers of these properties would experience a 4dB increase in noise within their rear gardens which is likely to be perceptible. The Noise Survey indicates that the internal daytime noise for a living room/bedroom within the first floor flats would be exceeded by 1dB above the 35dB threshold within the BS8233:2014. However, the noise levels detailed within the Noise Survey are likely to be worse if the discrepancies of the Noise Survey, as identified above, were rectified. Furthermore, no mitigation measures have been advanced to alleviate the noise pollution experienced by occupiers of neighbouring properties from the development.
11. Consequently, the development has a detrimental effect on the living conditions of the occupiers of neighbouring properties, with particular reference to noise and disturbance. As such, the development is contrary to Policy SP52 of the Rotherham Local Plan Core Strategy 2013-2028, adopted 2014. This policy requires consideration to be given to the potential noise likely to be generated by a development; the requirement for a Noise Assessment to enable clear decision making on any planning application; and for developments likely to cause pollution to only be permitted where it can be demonstrated that mitigation measures will minimise potential impacts to levels that protect health, environmental quality and amenity.
12. It would also be contrary to paragraph 130(f) of the National Planning Policy Framework that seeks to create places that are safe and promote health and well-being with a high standard of amenity for existing users.

Other Matters

13. I acknowledge that the development provides employment opportunities and that it is considered beneficial and an enhancement to Brinsworth by some. However, this does not provide sufficient justification to outweigh the harm I have found in respect of the main issue. The potential removal of the outdoor seating area may deter people from utilising the premises and could have a detrimental financial effect on the existing business. However, this has not been substantiated with evidence, and the information before me suggests that the business operated without the outdoor seating area prior to the pandemic.
14. It has been suggested that the noise pollution and anti-social behaviour people have experienced originates from a different public house on Brinsworth Road, rather than the appeal site. However, this has not been supported with evidence, and it does not negate the requirement for a comprehensive and accurate Noise Survey to be submitted.
15. The development does not affect sunlight, result in overshadowing or a loss of outlook. Nor does it affect a Public Right of Way or existing trees. However, these are neutral matters.

Conclusion

16. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR