



Planning Inspectorate

Appeal Decision

Site visit made on 8 November 2024

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2024

Appeal Ref: APP/C3810/W/24/3344522

The Rock Bar and Restaurant, 41-43 High Street, Bognor Regis PO21 1RX

- 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 Carl Turney against the decision of Arun District Council.
 - The application Ref is BR/40/23/PL.
 - The development proposed is for the creation of a roof terrace & covered bar and canopy with timber decked seating areas and raised deck area, new doors into first floor of building, internal timber screening to plant, increase in height of side walls to 2.5m/3.35m and a water feature 500mm above existing roof.
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Decision

1. The appeal is allowed, and planning permission is granted for the creation of a roof terrace & covered bar and canopy with timber decked seating areas and raised deck area, new doors into first floor of building, internal timber screening to plant, increase in height of side walls to 2.5m/3.35m and a water feature 500mm above existing roof at The Rock Bar and Restaurant, 41-43 High Street, Bognor Regis PO21 1RX, in accordance with the terms of the application, Ref BR/40/23PL, and the plans submitted with it, subject to the conditions set out in Annex A.

Preliminary Matters

2. For clarity and certainty, I have used the description of development on the Council's decision notice.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. However, on 30 July 2024 the new Government published a consultation on proposed reforms to the Framework and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023.

4. The Council has brought to my attention a previous appeal¹ associated with The Rock Bar that sought to vary and remove conditions related to its hours of operation and the use of an outside seating area. This is noted. However, the proposal before me is for the addition of a new roof terrace and its hours of operation. Therefore, I have considered this proposal on its own planning merits.

Main Issue

5. The main issue in this appeal is the effect of the proposal on the living conditions of neighbouring residents, with particular reference to noise and disturbance.

Reasons

6. The Rock Bar is an established bar and restaurant that is located in Bognor Regis town centre. The surrounding area has a variety of commercial premises, including shops, bars, public houses and restaurants. There are also residential dwellings to the side and rear of The Rock Bar, including the apartments found at Mountbatten Court which look towards the rear of the appeal site across Belmont Street.
7. The proposed roof terrace would be constructed to the upper/middle section of the appeal premises and would be predominantly shielded from the street by enhanced boundary treatments.
8. However, the Council has brought to my attention a Noise Impact Assessment (NIA) that it considers to be incomplete. Nonetheless, the NIA relates predominantly to the internal use of the premises rather than the proposal before me. Even so, the Council's Environmental Health department has outstanding concerns regarding potential noise outbreak from the activity and amplified sounds associated with the use of the premises below and the proposed functioning of the roof terrace itself, particularly the opening and shutting of the access door when in use. From the plans before me and the site inspection, I concluded that the roof terrace would be relatively detached from the activity that takes place in the lower sections of The Rock Bar. For example, but not limited to, amplified music, screens showing sporting events and general conversation. Indeed, as there would be a number of corridors and stairs that provide eventual access to the proposed terrace, they would act as a form of noise barrier between the outside area and the activities in the bar below.
9. Furthermore, given the relatively early closure of the terrace at 9pm, that could be secured by condition along with the conditioned exclusion of the use of monitors, screens, televisions, microphones and amplified music on the terrace, the opening and shutting of the terrace access door is likely to merge with other background noise and activity in this town centre location.
10. In any event, when living in a town centre location it should be expected that there will be some noise and activity, such as the comings and goings of people frequenting restaurants, social gatherings at public houses and the patronage of late opening shops. This activity contributes positively to the vitality and vibrancy of town centres and helps to bolster the wider economic success of a seaside town such as Bognor Regis.

¹ APP/C3810/W/23/3332996

11. I acknowledge that there are neighbouring residential properties and that there would be regular chatter and activity on the proposed terrace, particularly during the warmer months of the year. However, any patrons wishing to remain on the premises after 9pm would be able to withdraw to the lower part of The Rock Bar and leave in the same way as the existing arrangements allow. Consequently, any activity on the terrace would cease. As such, the neighbouring occupiers would retain the benefit of the quieter, late night hours.
12. Moreover, I do not doubt that the activity and use of the terrace will be monitored by the proprietor's as it is in their interests to maintain a successful business that is appreciated by tourists and the local community alike. My opinion is reinforced by the fact that there have been no recorded complaints about noise and disturbance related to activity at The Rock Bar, including the use of the outside seating area to the front of the premises, since its change of management in 2022.
13. Overall, I conclude that the proposal would not harm the living conditions of neighbouring occupiers.
14. Accordingly, the proposal would meet the aims of Policies QE DM1 and QE SP1 of the Arun Local Plan 2011-2032 (2018) which say, amongst other things, that development should contribute positively to the quality of the environment and ensure that it does not have a significantly negative impact upon residential amenity, the natural environment or upon leisure and recreational activities enjoyed by residents and visitors to the District, and the Framework when read as a whole.

Conditions

15. I have considered the Council's suggested conditions against Paragraph 56 of the Framework and the national Planning Practice Guidance (PPG) and imposed the following conditions: for certainty a standard time limit condition and a condition requiring that the development is carried out in accordance with the approved plans. In the interests of the living conditions of neighbouring occupiers, I have also imposed conditions related to the operating hours and use of the proposal that will align with the days of use for the wider premises.
16. For the reasons given above, the appeal should be allowed, subject to the conditions set out in Annex A below.

J E Jolly

INSPECTOR

Annex A:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved plan:
 - Location and Block Plan (Existing and Proposed Floor Plans, Elevations, Roof Plan, Proposed and Existing Sections)
- 3) The use of the roof terrace hereby permitted shall only take place between the following hours: Monday to Saturday 10:00 to 21:00.
- 4) No amplified music or sound from speakers, microphones, televisions, or other monitors shall be permitted on the hereby approved roof terrace at any time.

*****End of Conditions*****