



Appeal Decision

Site visit made on 3 April 2025

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 May 2025

Appeal Ref: APP/H0724/W/24/3358229

117 York Road, Hartlepool TS26 9DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ashley Johns of Team Tilly Leisure Ltd against the decision of Hartlepool Borough Council.
 - The application Ref is H/2024/0053.
 - The development proposed is change of use from a shop into an LGBT+ bar / nightclub.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a shop into an LGBT+ bar / nightclub, at 117 York Road, Hartlepool TS26 9DL, in accordance with the terms of the application, Ref H/2024/0053, subject to the conditions in the attached schedule.

Preliminary Matters

2. The submitted evidence suggests that the use as a bar / nightclub has commenced. At the time of my visit the building was laid out internally in accordance with the plans on which the Council made its decision. I have therefore determined the appeal based on these plans.
3. The updated version of the National Planning Policy Framework (the Framework), which came into force on 12 December 2024, introduces no changes that would materially affect the outcome of this appeal.

Main Issues

4. The main issues are whether the proposal would:
 - have an acceptable effect on the living conditions of nearby occupiers, with regard to noise and disturbance;
 - make adequate provision for waste storage; and
 - unacceptably increase the potential for crime and fear of crime in the area.

Reasons

Living conditions

5. The appeal site comprises a mid-terrace building fronting York Road, a busy commercial thoroughfare. Whilst the building is arranged over two storeys with additional attic space, only the ground and first floors are accessible and form part of the proposal. The neighbouring ground floor units along York Road are

occupied by a variety of predominantly commercial uses, with upper floors accommodating a mix of uses, including some residential. To the rear, the building opens directly on to a service lane, which runs between the commercial properties of York Road and the terraced residential properties on Johnson Street. The rear of these residential properties can also be accessed from the lane.

6. Policy RC2 of the Hartlepool Local Plan, May 2018 (the HLP), relates to development within Hartlepool town centre, as defined by the policies map. The site lies within, though on the edge of, the designated town centre, whereas the Johnson Street dwellings to the rear are outside of this boundary.
7. Policy RC2 identifies the town centre as a focus for food, drink, and nightclub uses. It states that businesses are not permitted to operate between 11.30pm and 7:00am unless located within the 'late night uses' area identified on the map. Although the appeal site lies outside that area, both main parties agree that the proposed use would not operate during those restricted hours.
8. The main bar, seating and dancefloor areas are situated towards the front of the building facing York Road. The rear is primarily designated for storage and service functions, including the kitchen, toilets and storerooms. Whilst patrons may have access to these areas, it appears that most noise-generating activity would be concentrated at the front of the premises.
9. Other than the solid door at ground-floor level, the only opening I observed on the rear elevation was a first-floor window serving a storeroom. However, the submitted plans propose this to be blocked up. Whilst concerns have been raised regarding the proximity of the rear elevation to the Johnson Street dwellings, the proposal includes no physical extensions to the property. The premises could be lawfully occupied by an alternative commercial use, and I have been directed to no specific policies concerning separation distances for changes of use.
10. Given these considerations, the design and layout of the development incorporates reasonable measures to mitigate potential noise and disturbance at the rear of the property, particularly in relation to the nearest neighbouring residential properties. Although there may be some noise associated with activity to the front of the property, this would be commensurate with its town centre location, and it would not operate outside of the general operational hours for this part of the town centre. Moreover, whilst it is acknowledged that the use has been operating without formal consent, no substantive evidence has been presented to demonstrate specific instances of noise or disturbance affecting nearby occupiers.
11. For these reasons, I conclude that the proposed development would have an acceptable effect on the living conditions of nearby occupiers in terms of noise and disturbance. It would therefore accord with Policies RC2, QP4 and QP6 of the HLP, which together seek to direct suitable development to the town centre, to minimise noise and disturbance, and to ensure compatibility with neighbouring uses. It would also accord with the relevant provisions of the Framework, which have similar aims.

Waste storage

12. The proposal does not include any dedicated waste storage facilities. Instead, it is proposed that waste be stored externally in the rear lane during operational hours and moved internally to the rear 'lobby' area when the premises are not in use.

13. Many of the buildings along York Road extend to the edge of the rear lane. At the time of my visit, several neighbouring properties had substantial bins stored externally within the lane.
14. However, the lane is reasonably wide, and even where bins were present, there appeared to be sufficient space for vehicles to manoeuvre without significant obstruction to deliveries or collections. Moreover, given that external bin storage is already a common practice in the lane, I am not persuaded that the occasional presence of bins associated with the appeal property – likely similar in scale to those of neighbouring premises – would result in any notable harm with respect to health, safety, or fire risk.
15. The lane is accessible from both the north and south via South Road and Thornton Street respectively. Lockable gates are located at both ends, though they were open at the time of my visit. Whilst I note concerns regarding the security of external bin storage, the presence of these gates provides an opportunity for the area to be secured via additional means, should occupiers choose to do so. Furthermore, as external bin storage is already an established practice in the lane, I do not find a modest increase in this use to raise any meaningful crime-related concerns.
16. For these reasons, I conclude that the proposed waste storage arrangements for the development would be acceptable and would accord with Policy QP5 of the HLP, which seeks to ensure development is safe and secure, and minimises the fear of crime. It would also accord with the relevant provisions of the Framework, which have similar aims.

Crime and fear of crime

17. In addition to the issue of waste storage, the Council also raises concerns that introducing another drinking establishment to the area may lead to an increase in crime and antisocial behaviour. In support of this, data from Cleveland Police has been cited, highlighting the number of reported crimes in the vicinity of the appeal site. Whilst these figures indicate that the area has experienced a notable level of reported crime, the information provided offers little insight into the specific nature of these incidents or any direct connection to the appeal site or the proposed use.
18. I acknowledge the reference to a recent complaint of antisocial behaviour outside the appeal premises, as well as the observations from interested parties regarding the conduct of patrons, including one incident where a crime reference number has been provided. Whilst I do not dispute these reports, the details regarding the nature and severity of the incidents are limited, and it is unclear whether any arrests were made. I also note the comments from the Council's Trading Standards and Licensing Manager, who confirmed that a premises licence was granted without objection from the police, and that no complaints had been received regarding the operation at the time the planning application was determined.
19. On this basis, there is limited evidence to substantiate claims of serious or sustained criminal or antisocial behaviour, or that the proposal would lead to an increase in such activity. Moreover, given the site's town centre location in an area that naturally attracts group activity and gatherings, some level of crime is to be expected, irrespective of the proposed development. In light of the evidence, I am

not persuaded that the proposed development would lead to an unacceptable increase in such occurrences.

20. For these reasons, I conclude that the proposed development would not unacceptably increase the potential for crime and fear of crime in the area. It would therefore accord with Policies QP4 and QP5 of the HLP, which together seek to ensure development integrates with neighbouring land uses, is safe and secure, and minimises the fear of crime. It would also accord with the relevant provisions of the Framework, which have similar aims.

Other Matters

21. I note the comments of interested parties regarding the front door opening outward on to the street and potentially obstructing pedestrians. However, the submitted plans confirm that the shop front would feature an inward-opening door. Should the appeal be allowed, these details would be secured via condition to ensure the development would not impede pedestrian movement.

Conditions

22. The Council has provided a list of suggested conditions that I have reviewed against the tests set out in the Framework and the Planning Practice Guidance. To ensure compliance with these tests, I have made minor amendments to the wording of some conditions, and omitted others where they were not necessary.
23. As the development has already commenced, the standard time limit condition is not necessary. In the interests of certainty, and to prevent the unauthorised use of certain parts of the building, it is necessary to impose conditions specifying approved plans and preventing the second floor being used as part of the development.
24. A condition requiring the submission of external materials for the proposed shop front works is necessary to safeguard the character and appearance of the area.
25. Several conditions are also necessary to protect the living conditions of neighbouring occupiers. These include a requirement to block up the remaining rear-facing window within a specified timeframe, as well as restrictions on the hours of opening, deliveries, and construction activities.
26. The Council has proposed a condition requiring the submission of a noise insulation scheme to safeguard the living conditions of nearby occupiers. However, the suggested condition does not reference any specific measures, construction standards, or target noise levels that this scheme should achieve. As drafted, it lacks precision, and in my view would not be enforceable. Furthermore, considering my conclusions regarding the living conditions of nearby occupiers and the practical measures secured through other conditions, including those limiting operational hours, I am not convinced that this additional condition would be necessary.
27. The Council has also suggested a condition removing permitted development rights associated with changes of use. However, no substantive evidence has been presented to justify this restriction. Given the site's town centre location and its context among a diverse range of commercial uses, I do not find the imposition of this condition to be necessary.

Conclusion

28. For the reasons given above, I conclude that the appeal should be allowed subject to the conditions listed in the attached schedule.

P Storey

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
Location Plan – 1180-SLP (received 20 May 2024)
Proposed Block Plan – 1180/P/8 (received 20 May 2024)
Proposed Elevations – 1180/P/6 (received 19 September 2024)
Proposed Floor Plans – 1180/P/5 (received 1 October 2024)
- 2) No works to the shop front shall take place until details / samples of all proposed external finishing materials for the shop front have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 3) Within 3 months of the date of this decision, the remaining windows facing the rear service lane shall be removed and the openings blocked up using materials to match the existing building, in accordance with the details shown on the approved plans. This arrangement shall be retained thereafter.
- 4) The use hereby permitted shall only take place between the following hours:
0700 to 2330 Monday to Sunday
- 5) Deliveries shall be taken at or despatched from the site only between the following hours:
0900 to 2000 Monday to Sunday
- 6) All construction / demolition works and associated deliveries shall take place only between the following hours:
0800 to 1800 Monday to Friday
0900 to 1300 Saturday
At no times on Sundays or Bank Holidays
- 7) The development hereby permitted relates only to the ground and first floors of the building in accordance with the approved plans. No part of the second floor of the building is permitted to be occupied in connection with the approved use.

**** End of conditions ****