
Appeal Decision

Hearing held on 15 April 2015

Site visit made on 15 April 2015

by Mark Caine BSc (Hons) MTPL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 May 2015

Appeal Ref: APP/H0738/W/14/3001258

New Cross Keys, 63-65 High Street, Yarm, Cleveland, TS15 9BH

- 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 I Briggs of Mistell Ltd against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 14/1361/FUL, dated 20 May 2014, was refused by notice dated 18 September 2014.
 - The development proposed was originally described as a "proposed single storey extension to create additional kitchen space, relocation of existing externally stored fridges, installation of external fire escape stair from first floor nightclub using flat roof as escape route. Relocation of boundary between adjacent property, 6 Church House Wynd."
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. It was confirmed at the Hearing that the proposal was amended following submission to the Council but prior to its determination. These changes, shown in the revised plans, illustrate that a refuse storage area including a glass crusher and a number of bins would be located to the southern side of the appeal building. I am satisfied that all relevant parties have had the opportunity to comment on these amendments and would not be prejudiced. Therefore I have determined the appeal taking account of the revised plans as amendments to the original application submission.
3. The application form states that the site address is 63 High Street but the Council's decision notice and the appellant's appeal forms indicate that the appeal site includes 63-65 High Street. In the absence of any conclusive information, I have adopted this consensus and amended the site address accordingly.
4. The Council confirmed at the Hearing that it has no objections to the impact of the proposed development on the character and appearance of the Yarm Conservation Area or the Cross Keys Public House which is a Grade II listed building. I have had special regard to the statutory duties to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area and the listed building or its setting or

any features of special architectural or historical interest which it possesses. In these respects, I am satisfied that it would preserve those interests.

Main Issues

5. The main issues in this appeal are:

- (i) The effect of the proposal on the character of Yarm District Centre.
- (ii) The effect of the proposal on the living conditions of the residents of 6 High Church Wynd, with particular regard to noise and outlook.

Reasons

Character

6. The appeal relates to a Grade II listed building known as the Cross Keys Public House that is located in Yarm District Centre. This area is predominantly commercial; however there are a number of residential properties nearby with the large rear garden area of No 6 High Church Wynd bounding the northern boundary of the appeal site.
7. The mix of dwellings with shops, offices and other uses are highlighted within Policy S9 of the Stockton-on-Tees Local Plan Alteration Number 1 to the Adopted Local Plan 2006 (LP) as once forming an essential part of the character of Yarm. Indeed, LP Policy S9 identifies the importance of retaining the residential character of this area by protecting a number of residential properties within Yarm District centre. As a result, the change of use of Nos 4-12 High Church Wynd from residential development is not permitted.
8. Nonetheless, the proposal would only effectively change the residential use of a small section of No 6's rear garden area. This part of the protected residential zone is characterised by predominantly two and three-storey dwellings that open directly onto the street, and have relatively modest and uniformed garden areas to the rear. However the existing back garden area to No 6 is of a substantial size, with the vast majority of it spanning across and directly behind the smaller rear garden areas of 8-12 High Church Wynd. This is uncharacteristically large and inconsistent with the tighter layout and pattern of the other rear garden areas along this side of High Church Wynd. A significant amount of this rear garden space would also be retained for the occupiers of No 6 and as such the proposal would not undermine the residential use of this property in its entirety.
9. The Council argue that it would not make a positive contribution to the local area, however for the reasons given above I do not consider that the effects of the change of use of such a small space, that is inconsistent with the prevailing layout and pattern of the garden areas in this area would be sufficiently harmful as to compromise the residential character of No 6, the group of houses at 4-12 High Church Wynd or Yarm District Centre as a whole.
10. In reaching my conclusions I have considered the argument that the grant of planning permission would set an undesirable precedent for other similar developments and I have had regard to the other planning appeal on this site. However, each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not alter my findings on this main issue. There is also little of substance before me that would lead me

to conclude that the proposal would be detrimental to the vitality and viability of the centre as a whole.

11. The Council's intention to consolidate the existing district centre boundary line of Yarm, and largely exclude residential areas from it, has also been brought to my attention. However as I have found that the proposal would not materially harm, and thereby retain the residential character of this area this matter does not alter my overall conclusion on this main issue.
12. As a result of these factors and the appeal site's close proximity to other commercial uses I conclude that the proposal would not have a materially harmful effect, and would thereby retain the character of Yarm District Centre. It would consequently not conflict with LP Policy S9, Policy CS3 (8) of the Stockton-on-Tees Borough Council Core Strategy Development Plan Document 2010 (DPD) and Draft Policy TC6 of the Council's Regeneration and Environmental Local Plan (Publication Draft) (RELP). Amongst other matters these require features of local character to be protected, including the retention of a mixture of uses and residential character within Yarm District Centre.
13. Even though the Council's RELP is yet to be adopted and has no statutory force, the thrust of this policy is consistent with those in the adopted LP and DPD which the application was determined against. With the agreement of the parties, I have given the Draft Policy TC6 some weight as a material consideration.

Noise

14. The existing fire escape from the first floor of the appeal building which is in use as a nightclub utilises an internal staircase which leads down into the external compound area. In order to reconfigure the internal layout of the ground floor kitchen area it is proposed re-route this escape over and across the flat roof of the proposed single storey extension. This would have an external staircase, be enclosed by an approximate 2 metre high timber screen fence and would terminate at the external seating area of the existing beer garden.
15. At the Hearing I was informed that the nightclub is open until the early hours of the morning and that this could operate for more than 3 days a week without the need of planning permission. I also appreciate that the proposed arrangements would bring the fire escape closer to No 6 and that this would be likely to cause some disturbance to its residents in the event of an emergency through people passing at close confines to its first floor windows.
16. However I also heard that the existing fire escape is used infrequently, the last time being in 2003. A local resident confirmed at the Hearing that he had not been disturbed by fire alarms during his residence (over 10 years). Whilst I appreciate that there are no guarantees in regards to how often a fire alarm will ring, I consider that this would be unlikely to be a regular occurrence. I have also noted that the Council's Environmental Health Section have assessed the impact of this arrangement and has not raised any objections to this subject to a planning condition for acoustic fire doors.
17. Concerns have been raised by local residents about the use of the fire escape for alternative purposes, and the increase in the floorspace of the nightclub. I have also been made aware of their complaints regarding noise and

disturbance from the nightclub in the past. However the increase in floorspace would be so insignificant that it could only result in a very minor increase in the number of customers. I am also satisfied that planning conditions similar to those suggested by the Council to restrict the use of the fire escape for emergency purposes only and for details of acoustic fire doors to be submitted and approved by the Council would control the use of this route and prevent noise spillage.

18. As such, I do not consider that the occasional use of the proposed fire escape would have a materially harmful effect on the living conditions of the occupiers of 6 High Church Wynd, with particular regard to noise. In this respect it would not conflict with Paragraph 17 of the National Planning Policy Framework (the Framework) which amongst other matters, seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Outlook

19. Although the dimensions and in particular the projection of the proposed single storey extension from the party wall have not been agreed by the main parties, it was clear on my site visit that this would be positioned in close proximity to the ground floor and first floor patio doors (and balcony) of No 6 and that its rear elevation would roughly align with the centre point of these openings.
20. The size of the remaining rear garden would be such that a substantial open aspect and breadth of outlook from this area would be retained. However the unrelieved brick wall of the proposed extension with approximate 2 metre high timber trellis cladding above it would have a claustrophobic effect and would significantly prejudice the outlook from the ground and first floor patio doors and balcony area of No 6. Whilst I appreciate that it would only be visible from inside No 6 as an end view, that the contents of the store would not be seen, and that the proposed cladding is described by the appellant as lightweight, the combined scale and massing of the proposal at such close quarters to these openings and the balcony area would visually dominate and have an oppressive and overbearing effect.
21. At the Hearing the appellant compared this relationship to that between the rear windows of 10 High Church Wynd and its rear boundary wall. However, the proposed extension would be located closer to the rear elevation of No 6 than the boundary wall is to No 10. Accordingly, I do not consider this relationship to be directly comparable with the appeal proposal.
22. It has been put to me that No 6 was once overshadowed by a number of trees and that by felling these the appellant has made an improvement to the previous situation. Be that as it may, as these trees have been removed they no longer form a part of the local context and I have therefore not included them in my deliberations. Whilst it is also uncontested that the proposal would not result in a direct loss of sunlight this does not overcome the harm that I have identified above.
23. I therefore consider that the proposal would have a significantly harmful effect on the living conditions of the residents of 6 High Church Wynd, with particular regard to outlook. In this respect it would conflict with Paragraph 17 of the Framework which amongst other matters, seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

24. The appellant has referred to a number of other matters in support of his case. These include benefits to the viability of the existing business in developing its restaurant, improving catering facilities for existing customers and attracting new clientele. The safety of the customers of the nightclub and the reduction in noise from the relocated chillers and fridges have also been put forward as a favourable factors. Nevertheless, these matters do not negate or overcome my strong concerns about the proposal's effect on the outlook of the residents of No 6.
25. In reaching my conclusion I have taken into account the objectives of the Framework and advice within the Planning Practice Guidance (PPG). However, there is not anything in the Framework or PPG that would lead me to reach a different decision.

Conclusion

26. The proposed development would not conflict with the intentions of the LP and DPD concerning the character of Yarm District Centre or guidance in the Framework in regards to noise. These factors, however, do not outweigh the significant harm that would be caused to the living conditions of the residents of 6 High Church Wynd in respect of outlook. Therefore, my overall conclusion is that the appeal should be dismissed.

Mark Caine

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

| | |
|-------------------------|-----------------------------|
| Mr Ian Briggs | Mistell Ltd |
| Mr Stephen Barker MRTPI | Prism Planning |
| Mr Paul Rowntree | The Cross Keys Public House |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|--|----------------------------------|
| Mrs Fiona Bage BSc Hons Dip EUC MRTPI | Stockton-on-Tees Borough Council |
| Miss Debra Moody MRTPI | Stockton-on-Tees Borough Council |

INTERESTED PERSONS:

| | |
|-----------------|----------------|
| Mr Luke Harding | Local resident |
|-----------------|----------------|

DOCUMENTS AT THE HEARING

1. Local resident's letter of objection.