

Chris Morris

From: jonathan@jawdesign.co.uk
Sent: 12 May 2022 17:09
To: Niamh Bonner
Subject: White Swan Inn Pickering - Environmental Health Officer Comments

Hi Niamh

I hope your doing well.

I had a chat with the applicant about R.E the Enviro Health Officer comments.
This was his considered response:

1. It is surprising that the EHO feel potential breaches of planning consent or environmental legislation by others are best addressed by limiting further development. It is the responsibility of the EHO to ensure that all residents, existing or proposed have the right of quiet enjoyment and non-invasion etc.
2. The permanent structure erected prior to Covid 19 reliefs by the Bay Horse that acts as it's so called beer garden has no planning consent. The Applicant has never had formal rights to comment on the suitability of this structure.
3. Their suggestion that to change to our proposed business model, ie simple letting bedrooms rather than a form of fractional ownership would address the EHOs concern is unacceptable and not material. It is not for EHO or planners to rule on business models where there is no impact in planning terms. We refute the suggestion that changing our business model will solve the issue – mainly because there is no issue to solve, for the following reasons:
 - a. Because all new 'owners' will be required to allow the hotel to let the new rooms as aparthotel style short-lets from time to time, everything to do with the property is strictly controlled by the landlord, right down to a requirement not to change the décor in any way, including wall art etc. The lease agreement will also contain the requirement that the 'owner' has no rights of redress externally and that all complaints about anything HAVE to be addressed to and by the landlord only. Therefore the EHOs conjecture that control would not rest with the Applicant is incorrect. There is no 'agent of change' principle in play in this scenario and therefore the EHOs point is immaterial.
 - b. The hotel has existing rooms, (some closer than some of the proposed new rooms), to the Bay Horse Public House. Since being built in 2005 there has not been a single complaint about noise, light or environmental pollution. So where is the precedent?. The EHOs statement is conjecture, not based on fact and immaterial.
 - c. To our knowledge, there have been no complaints from other residents on Park Street or the Market Place either.
(As a business who regularly complains to EHO about the Wine Bar next door to the man hotel, there is precedent that were there to have ever been a problem, the EHO would know about it and be able to present this as fact.)
4. There is no BS4142 Noise Impact Assessment because to present one would be meaningless. The purpose of a BS4142 is to assess the likely impact of new development on existing receptors, not usually the other way around. Given the quality of the proposed construction and its location within a town, the undertaking of a BS4142 would not be normal practice and places an unnecessary burden on the Applicant and the planning process. It would prove nothing. Any potential noise pollution from the Bay Horse is likely to be sporadic, if ever. How would a BS4142 capture this? Same for any odour impact assessment.
5. The Bay Horse has no license for or history of any outdoor live music events. It would need a license for any outdoor live music event outside the hours of 8am to 11pm. The impact of any such event would affect other existing residents equally and therefore the proposed development does not add additionality that may curtail the issuance of any such license. The EHOs point is therefore not material.
6. There are no night-time food take-away businesses on the Market Place with the exception perhaps of Cappelmans fish and chip shop. It closes at 9pm and is highly unlikely to change. Any possible impact from

it on the new development is conjecture. There is no history of any issue from it with the existing hotel rooms. Again the new development adds no additionality. The EHOs point is not material.

7. The idea that this development threatens the viability of multiple existing businesses, ie not just the Bay Horse is also conjecture. The Applicant would argue that the opposite is true. The quality and frequency of visitor to the new development is more likely to sustain rather than detract from the viability of local businesses. It would seem that the EHO has not considered any impact on the main hotel business that would be affected by a refusal of development, that of the Applicant. Covid related guidance to Planning Authorities is clear in its support of just this kind of development. The EHOs point is not material.
8. The Applicant has always previously and will in the future, work closely with EHO and we are happy to accept a planning condition that ensures this.
9. The Applicant is a county level minerals and waste planning professional as well as holding a license to sell alcohol.
10. Were the Planning Authority to uphold a final decision of the EHO to object to planning consent on the grounds of insufficient information and not support this application then the Applicant would immediately seek redress via the Inspectorate of Planning and seek its costs on the grounds of the immateriality of its concerns.

In addition – I would also say that the proposed boundary planting could be conditioned to be planted at mature heights and reinforced on the applicant side (between bay horse and the application site) to have a fence that would also throw up any transmitted noise etc.

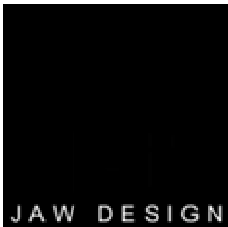
This may help to alleviate any concerns by the EHO.

The applicant is very concerned that the proposals create an appropriate an comfortable location / development.

Thanks Niamh

Regards

Jonathan Wilson



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