



Appeal Decision

Site visit made on 5 June 2018

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 15 June 2018

Appeal Ref: APP/V2825/W/17/3181521

Old Bakehouse Gallery & Café, 137 Harbrough Road, Northampton NN2 8DL

- 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 Ms Annette Gibas against the decision of Northampton Borough Council.
 - The application Ref N/2017/0326, dated 14 March 2017, was refused by notice dated 14 July 2017.
 - The development proposed is use of the garden as extra seating area.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the living conditions of neighbours with regard to noise and disturbance.

Reasons

Living conditions

3. The appeal property is located within a residential area characterised by the linear development of terraced houses set back from the busy traffic along Harbrough Road behind shallow front gardens. As a result, the rear gardens to these dwellings are of particularly high amenity value as they provide the only quiet and private outdoor space to these homes. Whilst there is a care home on Harbrough Road close to the appeal property, whose residents it is stated can at times be heard, this does not alter my assessment of the amenity value of these rear gardens to their occupants.
4. On the day of the site visit the rear garden was not in use as an outdoor seating area. As a result, I have assessed the scheme on the basis of the plan that accompanied the application.
5. The rear gardens to the dwellings on both sides of the appeal property are long and relatively narrow. The proposed seating area would be located towards the end of the garden and would provide 15 covers. A café use generates noise in the form of conversation, movement of chairs and use of crockery and utensils. Whilst similar noises would be generated by the use of neighbouring gardens for outside eating the larger number of people using a café, which in this case would be open six days a week from 9.30am to 5.30pm, would be louder, more intrusive and of considerably greater duration. In my judgement, given the close proximity of neighbouring gardens, the noise and general disturbance

resulting from the outdoor seating area for the café would have a significant adverse effect on the living conditions of neighbours and result in poorer living conditions than it is reasonable to expect.

6. I recognise that not all of the immediate neighbours have objected to the use of the garden as a seating area. However, it is function of the planning system to secure good living conditions for existing and future occupants of buildings and in this regard the scheme falls short of this goal.
7. For the reasons given above, I therefore conclude that the use of the garden as a seating area would result in noise and disturbance that would demonstrably harm the living conditions of neighbours, contrary to policies S10 and BN9 of the West Northamptonshire Joint Core Strategy and policy E19 of the Northampton Local Plan which seek to prevent such harm. It would also be contrary to a core planning principle of the National Planning Policy Framework which seeks to ensure a good standard of amenity for occupants of buildings.

Other matters

8. Close by, to the north, are several houses that are Grade II listed buildings. The significance of these buildings is architectural and historical. The statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The elements of their setting that contributes to their significance is the relationship of these dwellings to Harborough Road and nearby buildings. It forms no part of the Council's case that the character or setting of these listed buildings would be harmed by the proposed development and I agree with that assessment. The absence of harm though is a matter of neutral rather than positive weight that weighs in favour of a proposal.
9. In support of the appeal, reference has been made to public houses in the area near to housing which have car parks and outdoor seating areas. However, it appears to me that these public houses have been in existence for many years and are likely to have been in use prior to the planning regime introduced by the Town and Country Planning Act 1947. As a result, when they were first opened different controls existed. Consequently, reference to these public houses has not altered my assessment of the proposal.
10. The café is a valued local facility used by local people, including the elderly and children with autism. It is also opposite a recreation ground where there are no facilities for the public. The garden provides more space and is more readily accessible than the building for mothers with pushchairs and those using wheelchairs. The expansion of the business as a result of using the garden would also result in an additional full time member of staff, together with two additional part time employees.
11. However, these benefits of the scheme do not overcome the cogent planning objections that relate to the harm to the living conditions of neighbours that the development would result in and the resulting conflict with the development plan. As a result, having due regard to the Public Sector Equality Duty contained in the Equality Act 2010, I find that dismissing the appeal would not be discriminatory to young children, their carers, older people or people with disabilities.

Conclusion

12. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector