



Appeal Decision

Site visit made on 1 June 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2020

Appeal Ref: APP/X1118/D/20/3244791

Sunshine, 55A Moor Lea, Braunton EX33 2PF

- 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 Cotton against the decision of North Devon District Council.
 - The application Ref 70764, dated 8 November 2019, was refused by notice dated 9 December 2019.
 - The development proposed is retrospective for skate ramp.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The skate ramp was in situ at the time of my appeal site visit, albeit that the highest part of the ramp in the north-west corner had been removed. The description of development refers to the retrospective nature of the application.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to noise and overlooking.

Reasons

4. The skate ramp is situated in the rear garden of 55A Moor Lea, which is a dwelling surrounded by other dwellings in a close-knit arrangement. The ramp provides two 'bowls', separated by a central platform and with platforms at either end. The platform heights vary marginally, but sit approximately 0.5 metres or more lower than the top of the rear garden fence. The ramp takes up a large proportion of the upper tier of the garden, but leaves sufficient space for other leisure and recreational uses.
5. The appeal property and 'The Linhay' to the rear are separated by a hit-and-miss garden fence of approximately 1.8 metres in height, which largely affords privacy to the respective occupants. Due to the height of the platforms, users, even those of a height of a child, are able to gain a full and uninterrupted view of the rear garden of The Linhay. Though there will often be a degree of mutual overlooking in an urban situation, the ramp, positioned at its height on the higher tier of the garden and in close proximity of the fence, undermines the privacy of the occupants of The Linhay. Whilst the current occupants of both respective properties may be related, the role of the planning system is to consider the effects of development on both the current and any prospective future occupiers.

6. Due to the more extensive hedged boundaries currently in existence and the positioning of buildings, I do not consider that any other adjoining neighbours, such as those at South Lea House, South Lea Gardens or No 57A Moor Lea, are materially affected in terms of overlooking from users of the skate ramp.
7. In terms of noise, due to the arrangement of dwellings around the appeal site, those affected by noise may include all the aforementioned dwellings with a boundary adjoining the appeal site. I note that there is an ongoing investigation being conducted by the Council's Environmental Protection Unit.
8. I accept that the use of a domestic garden for children playing is likely to result in noise, and that the noise will vary depending on the activity they are undertaking, whether that be football or trampolining etc. However, none of the typical garden games will result in such a persistent noise for the duration of its use, with the roll of the wheels along the surface of the bowls, and 'thuds' as the users land and manoeuvre on the platforms. These noises are additional to the typical laughter, shrieks and conversational noise that would be otherwise expected with any of the aforementioned activities.
9. I note that consideration has been given to a condition to limit the times of use of the ramp and/or for the maximum permissible noise limits to be specified in a condition. I do not consider that such a condition could adequately protect the living conditions of neighbouring occupiers. Nor have any physical alterations to the ramp been suggested that would be certain to limit its noise impacts on any adjoining neighbours.
10. The appellant has requested to retain the original ramp that existed prior to its doubling in size in the Spring of 2019 as a concession in the event of dismissal of the appeal. The submitted plans provide for the entire structure that was present at the time of my visit (except the highest corner platform). There is no obvious manner to allow for the disaggregation of the structure, nor any plans to detail what may have been added more recently to a pre-existing structure. Nor could the overlooking or noise effects on neighbouring occupiers be certain to be prevented from such an arrangement. As such, my appeal decision relates to the whole structure.
11. Consequently, the development is harmful to the living conditions of neighbouring occupiers in terms of overlooking and noise. The development is therefore contrary to Policies DM01, DM04 and DM25 of the North Devon and Torridge Local Plan 2011 – 2031 (adopted 2018). These policies, amongst other things, collectively seek to safeguard the amenities of existing and future neighbouring occupiers.

Other Matters

12. I note that the ramp offers opportunities for outdoor physical activity which has health benefits for the appellant's children. Whilst they may not always pursue hobbies that involve using the ramp, it would not be possible to specify a point in time when it should be removed. Nor would it be reasonable or enforceable to prevent the use of the ramp by condition for the duration of the summer holidays. The permission sought is permanent and I cannot be certain that any conditions would overcome the harm to neighbouring occupiers.

Conclusion

13. The development conflicts with the Development Plan and there are no considerations of sufficient materiality to outweigh this conflict or the identified harm.
14. For these reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR