



Appeal Decision

Site visit made on 8 September 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 26th October 2020

Appeal Ref: APP/M0933/W/20/3246568

Eden Lodge and House, Coast Road, Bardsea, Ulverston LA12 9QZ

- 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 E Liehr against the decision of South Lakeland District Council.
 - The application Ref SL/2019/0615, dated 19 July 2019, was refused by notice dated 19 December 2019.
 - The development proposed is retrospective application for the retention of 4 wooden chalets used in connection with the main lawful use of the site for ancillary holiday accommodation for the main house, a separate holiday let unit and managers accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Following the refusal of planning permission for the application subject of the appeal, planning permission (Ref SL/2020/0108) was granted in June 2020 to retain the 2 wooden chalets proposed as managers accommodation (buildings D and E). Accordingly, the Council considers that the appeal relates only to the 2 chalets proposed as ancillary holiday accommodation (buildings B and C). Therefore, I have determined the appeal on this basis.
3. Although the wooden chalets have already been constructed, the evidence indicates that they are not in use as holiday accommodation. Therefore, I have determined the appeal on the basis that retrospective permission is sought for the chalets and permission is sought for their use as holiday accommodation.

Main Issues

4. Therefore, the main issue is the effect of the proposed holiday accommodation on the living conditions of the neighbouring residential occupiers of Feldgate, with particular regard to noise and disturbance and loss of privacy.

Reasons

5. The appeal buildings B and C are part of the Eden Lodge and House complex, which comprises 2 main buildings in use as holiday accommodation with several ancillary wooden buildings set in extensive mature landscaped grounds. It is in an area of open countryside. Buildings B and C are sited to the rear of Eden House and immediately adjacent to the southern boundary of the site adjoining the rear garden of Feldgate, which is part of a short ribbon of residential development along Red Lane. Although historically separated by a tall coniferous

hedge, the boundary between the appeal site and the residential garden is currently formed by a tall close-boarded timber fence.

6. Buildings B and C are site close to one another and they are within 1 metre of the shared boundary with Feldgate. By virtue of their height and proximity to the boundary, both buildings are clearly visible from the rear of the residential property. However, they are modest in size and they are well separated from the residential dwelling by its large rear garden. Consequently, they are not significantly visually obtrusive and they are not an overbearing form of development when viewed from the rear of Feldgate or its garden.
7. Both Buildings B and C have ground floor windows in their side elevations. However, the boundary fence prevents views into the garden of Feldgate. While Building C is a taller building with a ridge height of 4m to provide internal accommodation at first floor level via a mezzanine, there are no first floor windows facing Feldgate. Consequently, the proposal would not result in overlooking or loss of privacy of the residential occupiers of Feldgate.
8. The existing use of the paved area and barbeque to the side of Building B by the Eden House guests is likely to result in a degree of noise and disturbance to the occupiers of Feldgate. However, while there is little before me in relation to the intensity or frequency of use of this area, the main outdoor space where Eden House guests congregate is to the north west of the main house. Therefore, proposed use of Building B would result in an increase in activity close to the boundary with Feldgate, both in terms of the numbers of people and the timing and frequency of activity. Consequently, the proposal would contribute to cumulative adverse effects on the living conditions of the neighbouring residential occupiers.
9. It is suggested that the proposed use of Building B would result in a reduction in noise and disturbance compared to its previous use as a cinema room for Eden House. However, the last permitted use of Buildings B was for the storage of garden tools and equipment incidental to the use of Eden House as a retirement home (Ref SL/2007/0367). While it may have been used more recently for other purposes, there is no substantive evidence of any other lawful use of Building B. The use of Building B for storage would result in a very different pattern of activity to its use as holiday accommodation.
10. I appreciate that Building B is intended to be used as an ancillary annex to Eden House rather than to increase the total number of holiday guests, although I note that there would be an increase in the total number of beds available from 14 to 18. However, even if the total number of guests could be restricted to 14 by planning condition, there would be an increase in activity adjacent to Feldgate.
11. The formal outdoor space to the side of Building C is immediately adjacent to the boundary of Feldgate, close to a small sitting out area in the neighbouring garden. I acknowledge that the hot tub illustrated on the submitted plans has been relocated away from the boundary and the area is laid out as a seating area. However, even though Building C would sleep only 3 people, the use of the outdoor area would result in noise and activity immediately adjacent to, and across a greater extent of, the rear boundary of Feldgate.
12. Building C is proposed to be used either ancillary to Eden House or as a separate holiday let. In either scenario, users would share all ancillary facilities. I accept

that if Building C was let separately, the associated outdoor area would be likely to be used only by the low number of occupiers of Building C. However, at times when Building C was used ancillary to Eden House, the seating area could be used by larger numbers of people. In this regard, I observed a picnic table with wooden benches, a patio-type table, 6 outdoor chairs and what appeared to be a portable covered barbeque. Therefore, notwithstanding its small size, the outdoor area attached to Building C could accommodate a relatively large number of holiday guests. I appreciate that there was historically a wooden building in the same location as Building C. However, the lawful use of an equipment and machinery store would be unlikely to result in the same frequency and intensity of activity as a holiday unit.

13. The boundary fence prevents overlooking between the appeal buildings and Feldgate. However, it is not an acoustic fence and it would not be adequate to mitigate the noise arising from groups of people socialising outdoors, including talking and playing of music late into the evenings on any day of the week. I appreciate that the former hedge in the garden of Feldgate would have provided a greater degree of noise mitigation. However, the management of their garden is a matter for the neighbouring residential occupiers. It would not be reasonable to expect them to mitigate the adverse effects of adjacent development. In this regard, while the neighbours have carried out replacement hedgerow planting, the close siting of the appeal buildings to the boundary would not allow for any landscape planting as part of the appeal scheme to mitigate adverse impacts.
14. I note the suggestion that the holiday occupation of Buildings B and C would be a benefit to the neighbouring occupiers, on the grounds that the holiday occupiers would not tolerate noise and disturbance arising from Eden House. However, it would not be reasonable to expect the occupiers of the appeal buildings to control the behaviour of other users of the holiday site. Moreover, while the manager's accommodation is in close proximity to the appeal site, there is little before me in relation to what would constitute unreasonable behaviour by guests or how activity close to the boundary could be managed to avoid adverse impacts on neighbouring residents.
15. Therefore, the proposed holiday accommodation would harm the living conditions of the neighbouring residential occupiers of Feldgate, with particular regard to noise and disturbance. Although the proposal would not result in a loss of privacy, nevertheless it would conflict with Policy DM1 of the South Lakeland Local Plan Development Management Policies Development Plan Document Adopted March 2019. This requires development to ensure acceptable levels of amenity for neighbouring users including through adequate separation distances and private and public spaces and landscaping. It would also conflict with policies in the National Planning Policy Framework (the Framework) that relate to promoting health and well-being and high standards of amenity.

Other Considerations

16. I appreciate that Eden Lodge and House has been in holiday accommodation use for several years and the appellant is not aware of complaints from neighbouring residential occupiers during that time. Nevertheless, a number of third parties have raised concerns in relation to noise and disturbance and antisocial behaviour in close proximity to the boundary of the site.
17. Although I have considered the proposal on its own merits, it is nevertheless appropriate for me to consider whether the impact would be significantly greater

than the fallback position at this site. In this regard, the appellant has suggested that if the appeal should fail, Building B would continue to be used as a cinema room ancillary to the main holiday accommodation, resulting in large numbers of comings and goings in this area. However, in the absence of substantive evidence to demonstrate is lawful use as a cinema room, the fallback position for Building B is a storage building ancillary to Eden House.

18. I appreciate that outdoor space and barbeque adjacent to Building B would continue to be used by the guests of Eden House. The appellant has suggested that if Building C is removed, then its hardstanding base would also be used as an area of outdoor space where guests would congregate. However, the main outside area for guests is to the north west of Eden House and I see no reason why large numbers of guests would prefer to sit on the foundations of a former building adjacent to the site boundary. Therefore, I am not persuaded that the fallback position would be more harmful than the proposal and it does not weigh in favour of the scheme.
19. My attention has been drawn to a recent planning permission for extensions and alterations to Feldgate, including first floor living accommodation that would allow views towards the appeal site. However, adjacent development is not a justification for the appeal scheme.
20. The evidence suggests that the Building C holiday accommodation would have been proposed elsewhere in the wider site if the former hedgerow in the garden of Feldgate had not existed. Therefore, while it would be inconvenient to relocate Building C, I am not persuaded that there are no alternative solutions that could deliver similar benefits without the harm that I have found.
21. The proposed use of Building B ancillary to Eden House would allow for flexibility in terms of sleeping arrangements. However, on the basis that it would not increase the overall number of guests, I am not persuaded that single or zip-link beds could not be provided in Eden House. Building C is proposed as basic accommodation for a small number of people with an anticipated low level of occupancy. On this basis, irrespective of policy support for the expansion of tourist accommodation, the proposal would not make a significant contribution to the appellant's business or to the wider tourism or local economy.

Conclusion

22. For the reasons set out above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR