



Appeal Decision

Site Visit made on 6 May 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Friday, 28 May 2021

Appeal Ref: APP/V2825/W/20/3260275

Mill House, 67 High Street, Wootton, Northampton, NN4 6LP

- 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 Miss Emily Armstrong against the decision of Northampton Borough Council.
 - The application Ref: N/2020/0245, dated 22 October 2019, was refused by notice dated 2 September 2020.
 - The development proposed is a change of use of dwelling to a mixed use dwelling and tea room.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the 1st April 2021 Northampton Borough Council ceased to exist and became part of the unitary authority known as West Northamptonshire Council. The development plan for the merged local authority remains in place until such a time as it is revoked or replaced. It is therefore necessary for me to determine this appeal with reference to policies set out in the plan produced by the now dissolved Northampton Borough Council.
3. The appeal property had been laid out as a tearoom at the time of my site visit and the application form indicates that the change of use commenced in July 2019. Albeit there were no customers in attendance at the time of my site visit, I have treated the appeal as seeking retrospective permission for the proposed development.

Main Issues

4. The main issues are the effect of the proposed development on the living conditions of neighbouring occupants with regards to noise, disturbance and the provision of parking.

Reasons

Living conditions - noise and disturbance

5. The appeal site consists of a large detached dwelling situated within an extensive plot together with areas for vehicular parking. It has a large enclosed rear garden which is in close proximity to a number of residential properties and their rear gardens. The proposal seeks permission for a use of the appeal property as a tearoom with indoor and outdoor dining areas in addition to ongoing use of the property as a dwellinghouse.

6. At the time of my site visit, the tearoom use had ceased. As a result, the garden area was not being intensively used. Moreover, it appeared to function as a residential garden with play equipment suitable for use by children. I appreciate that private garden areas can be inherently noisy places on occasion, particularly during periods of child's play, but the noise and disturbance accompanying a dwellinghouse use is unlikely to be over a sustained period of time nor result in any significant disturbance to those residents living nearby.
7. In contrast, the proposed outdoor dining area could be used for 3 hours on Tuesday to Friday, and 5 hours on Sundays, which would generate sustained periods of noise throughout the afternoon period of most days of the week. In particular, there would be noise from clearing tables of crockery, moving furniture, raised voices, laughter and other associated noise, in close proximity to the boundaries with neighbouring dwellings. This noise would be untypical in character for a predominantly residential area and would vary in its level depending on the individuals or groups present or the number of people present at any one time. The arrival and departure of customers through the rear garden area would add additional noise and disturbance from the opening and closing of the gate, voices and vehicular movements associated with the dropping off and collection of customers. The use of indoor dining areas has the potential to have a reduced impact, but this would be reliant on doors and windows remaining closed. During periods of warmer weather, the windows are unlikely to remain closed and, in any event, this does not overcome the noise and disturbance generated by customers as they access the indoor premises via the rear garden.
8. Taken over a prolonged period, this type of noise would be intrusive and irritating to neighbouring residents, particularly when using their private garden areas. Given that the outdoor dining area would be most likely to be heavily used during pleasant weather and at weekends, this would coincide with the times that neighbouring residents would be most likely to be utilising and enjoying their private gardens. Despite some limited distant background traffic noise from the A45, this is not intrusive and the gardens surrounding the appeal site are presently quiet and tranquil areas.
9. Overall, the level, character and duration of the noise likely to be generated as a consequence of the appeal scheme would disrupt the degree of tranquillity within surrounding garden areas and significantly harm the enjoyment of these spaces. This would significantly compromise the living conditions of neighbouring occupiers, particularly as a number of the rear gardens adjoining the appeal site are small in size and therefore residents would be unable to move further away from the source of the noise. For similar reasons, as a number of neighbouring dwellings have windows serving habitable rooms within their rear elevations and in close proximity to the appeal scheme, neighbouring occupants are likely to be disturbed as a consequence, particularly during warmer months when windows are likely to be left open.
10. My attention has been drawn by the appellant to the operation of a takeaway business selling cakes and take-out afternoon teas which has operated from the appeal dwelling over the recent period of Covid-19 lockdown restriction. It is suggested that there have been no complaints to arise from this activity. However, in my view, such activities do not generate the levels of activity that the proposed change of use would create. Customer visits to the appeal

property to collect take-away food would be short and would not necessarily incur the congregation of groups for prolonged periods of time. Therefore, the impact on neighbouring occupiers with regard to noise and disturbance would not be comparable to the proposed change of use.

11. Accordingly, for the reasons given above, I conclude that the proposed development would significantly compromise the living conditions of neighbouring occupiers with regards to noise and disturbance. It would be contrary to Policies S10 and BN9 of the West Northamptonshire Joint Core Strategy Local Plan (Part 1)(2014)(JCS) insofar as these policies require development to minimise pollution from noise to achieve sustainable development and healthy communities. It would also conflict with the aims of the National Planning Policy Framework which requires, among other things, for development to create places that promote health and well-being, with a high standard of amenity for existing and future users.

Living conditions - parking provision

12. There is some dispute between the parties concerning the amount of available off-street parking at the appeal property. Nonetheless, irrespective of the accurate figure, the proposed scheme will generate a significant number of visitors to the property and it is evident that there would be inadequate off-street parking available within the appeal site itself.
13. I accept that some customers will inevitably walk or cycle to the appeal site, however, others will be likely to choose to use their private motor vehicles. My attention has been drawn to the availability of parking space within a car park at a nearby public house. However, in my view, there would be no planning control that would be capable of ensuring that all customers of the appeal proposal would use that space for parking. Whilst the route is a reasonably short distance to walk, this may not be suitable for all customers, particularly those with disabilities or young children, who would be more inclined to park closer to the appeal property.
14. Moreover, there is little evidence before me regarding the agreement with the PH to allow customers to park on their land. It is not clear whether the agreement has any legal basis, how long the permission will last and on what basis the permission could be withdrawn, particularly if ownership of those premises were to change in the future. Whilst the appellant suggests that alternative parking arrangements would be sourced if the PH were no longer made available for use, it is not clear to me that a reasonable alternative of a similar scale and distance from the appeal property would be available. Furthermore, I cannot be satisfied that patrons of the PH would not be displaced to park within the highway. As such, I attach negligible weight to this matter as an alternative parking provision for the appeal scheme.
15. Consequently, in the absence of any substantive evidence, I am satisfied that the appeal scheme would result in additional parked motor vehicles within the local highway network. The High Street is relatively narrow in places and whilst some properties have ample off-street parking for several vehicles, I observed that others did not. Although I have not been provided with any detailed surveys of on-street car parking stress, increased parking demand in instances of limited supply may lead to additional congestion as drivers seek parking space or park illegally which would be detrimental to the living conditions of

neighbouring residents. There is no evidence before me to suggest that such circumstances could be avoided by the appeal proposal.

16. For the above reasons, I am unable to conclude that the car parking arrangements would be acceptable. The proposal would be likely to adversely affect the living conditions of neighbouring occupiers and it would be contrary to JCS Policy S10 insofar as seeks to achieve sustainable development and healthy communities.

Other Matters

17. I understand that the appeal property has generated complaints of noise and disturbance arising from live music and seasonal events, mainly conducted during evening hours. However, the appellant has no desire to carry out similar events in the future and the proposed hours of operation would preclude such events being held in the evening. As such, this matter has no bearing on the current appeal proposal.
18. The appellant states that tables would need to be booked in advance, the facility would not serve alcohol and the majority of the clientele would be elderly persons or young mothers. It is put to me that the type of customers attracted to using the tearoom are not inherently noisy, however, even the most well-intended and behaved persons would be likely to generate a level of noise and disturbance which would lead to levels of disturbance over and above that of a dwellinghouse use. Whilst it is clear to me that there is considerable support for the appeal proposal, these matters do not justify a development which would have a significant adverse impact on the living conditions of neighbouring occupiers. Similarly, the restoration of the dwelling, completion of hygiene training, the achievement of a 5* food hygiene rating and numerous charitable donations do not outweigh the harm I have described above.
19. Reference has been made to the availability of a café at the Recreation Ground, the tender process involved in selecting an occupier for the facility, instances of anti-social behaviour in proximity to that facility and the local market prohibiting the sale of cake. However, these are not matters for me to determine as part of this appeal and in any event, I have determined the appeal proposal on its individual planning merits.
20. Reference is made to the emission of odours from cooking, however, as this scheme is not going ahead, I have not had to give this matter any further consideration.

Conclusion

21. For the reasons given above, I conclude that the proposal fails to accord with the development plan. There are no material considerations in this case that justify a decision otherwise than in accordance with the development plan and therefore, the appeal is dismissed.

E Brownless

INSPECTOR