



Appeal Decision

Site visit made on 28 September 2021

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2021

Appeal Ref: APP/E2205/W/21/3271975

4 Cormorant Place, Finberry, Sevington, Ashford, Kent TN25 7FT

- 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 Mrs Sharon Beard, Crumbs Catering against the decision of Ashford Borough Council.
 - The application Ref 20/01368/AS, dated 6 October 2020, was refused by notice dated 4 February 2021.
 - The development proposed is the conversion of a wooden lodge into a kitchen and prep area for a catering business.
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Decision

1. The appeal is allowed and permission is granted for the conversion of a wooden lodge into a kitchen and prep area for a catering business at 4 Cormorant Place, Finberry, Sevington, Ashford, Kent TN25 7FT, in accordance with the terms of the application, Ref 20/01368/AS, dated 6 October 2020, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - the effect of the proposal on the living conditions of nearby occupiers in relation to odour and noise; and
 - whether there would be a shortfall in car parking.

Reasons

Living conditions

3. The proposal is for an existing single storey wooden lodge, about 7 m by 3 m, in the rear garden of No 4 Cormorant Place, to be converted for use as a kitchen and prep area for a catering business. The Council have no objection to the wooden lodge building itself which has been erected under permitted development rights.
4. At the time of the site inspection it was noted that the building contained various fridge/freezers and a sink unit but no cooking facilities. The proposal is to install cooking equipment to include an oven and microwave to enable a catering business to be carried on from the premises.
5. The lodge is located in a domestic garden about 1.1 m from the rear boundary fence of No 12 Bulfinch Avenue, about 0.9 m from the wall abutting a public

path and open space. The garden also adjoins a parking court. In this restricted context the Council is concerned that odour and noise arising from the food preparation process carried out in the lodge will adversely affect the living conditions of nearby occupiers, particularly if windows and doors are left open in hot weather.

6. Whilst this concern is appreciated, and those using the end of the rear garden of No 12 would be close, the catering business proposed is relatively small scale and would only be carried out for a few hours in the early morning on weekdays. Essentially a sandwich/bagette making operation, the business involves Mrs Sharon Beard who lives in No 4 and one other person working between 6am and 10am maximum with cooking limited to the period 7.30am and 9am¹. The appellant is willing to accept a condition to this effect and also a condition limiting the use to Mrs Beard personally with the equipment to be removed when her business use ceases.
7. The proposal also involves a cooker with absorbent hood² rather than an external vent or flue which would limit the emission of odours outside the building. A condition could be imposed to ensure that any change to this arrangement or the introduction of mechanical ventilation (which might result in odour and/or noise) can only be carried out with the express approval of the Council. Such approval could then be withheld or the details controlled. Whilst windows and doors could be left open in hot weather, with activity confined to a limited period in the early mornings, this would not seriously affect nearby occupiers using their rear gardens.
8. For these reasons, provided suitable conditions are attached, the proposal would not significantly affect the living conditions of nearby occupiers in relation to odour and noise and would comply with Policies SP1 and EMP1 of the Ashford Borough Local Plan 2019 (the ABLP). These seek to provide a range of employment opportunities and preclude any significant impact on the amenities of neighbouring residential occupiers.

Car Parking

9. No 4, a four-bedroom property, has two car parking spaces, one in a shared parking barn and a second space in front. The proposal would not include the provision of any additional car parking spaces. In addition to Mrs Beard who lives in No 4, the business involves one additional member of staff who arrives daily and uses one of the visitor spaces in the area.
10. Based on the size of the lodge building, the Council's parking standards require the provision of one additional space to accompany the proposed commercial use. However, the activity of the business is limited to the early morning on weekdays when many residents are out to work and there are likely to be few visitors to nearby houses. Whilst these have only limited dedicated parking spaces³, there are several visitor spaces nearby in Bulfinch Avenue.
11. The Council draw attention to an appeal decision relating to 7 Cormorant Place nearby where a proposal for garage doors on a car barn was dismissed on the basis that a parking space would be lost⁴. However, in this case no existing

¹ Times from the application form and email correspondence to the Council.

² Email correspondence to the Council.

³ Indeed, the Council's standard for 4-bedroom property like No 4 is normally three spaces.

⁴ Application 16/01686/AS

space would be lost and the additional demand for a visitor space would only be for a few hours each week. In any event, notwithstanding the comments of the previous Inspector, no evidence has been submitted to demonstrate undue pressure on spaces in the area, nor signs of inconsiderate parking leading to obstruction and danger to highway users.

12. For these reasons the proposal would not lead to a significant shortfall in car parking and would comply with ABLP Policies EMP1 and TRA3. These require appropriate provision for parking but allow a departure from the normal standard where an occupier requires fewer parking spaces to cater for their specific operational needs.

Conclusion

13. The Council suggest conditions should the appeal be allowed and these are not disputed by the appellant. In addition to the standard implementation time limit it is necessary for the use to be limited to the building concerned, for the hours of operation to be controlled and for the use to only be operated by the current appellant, all to give the Council control over the operation given its residential setting and the close proximity of nearby occupiers. For the same reason it is necessary to preclude a cooker flue/vent/mechanical ventilation without further permission. There is no need to specify the approved plans as the building has already been erected under permitted development rights.

14. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The business use hereby permitted shall be confined to the wooden lodge only and no other part of No 4 Cormorant Place.
- 3) The wooden lodge shall only be used for food preparation between 06.00 and 10.00 hours Monday to Friday with cooking limited to between 07.30 and 09.00 hours and not at any time on Saturdays, Sundays or Public Holidays.
- 4) The business use hereby permitted shall be carried on only by Mrs Sharon Beard and no other person. On cessation of the use, all materials and equipment brought into the wooden lodge in connection with the use shall be removed within a period of three months.
- 5) No external cooker flue or vent shall be installed nor any mechanical ventilation for the wooden lodge without prior approval in writing from the local planning authority.