



Appeal Decision

Site visit made on 23 September 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2021

Appeal Ref: APP/W9500/W/21/3277410 21 Dalehouse, Staithes TS13 5DT

- 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 Lorraine Howell against the decision of North York Moors National Park Authority.
 - The application Ref NYM/2021/0147/CU, dated 2 March 2021, was refused by notice dated 26 April 2021.
 - The development proposed is change of use of part of domestic garden to form commercial tea garden for walkers and cyclists (revised scheme to NYM/2020/0431/CU).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. Both main parties have had the opportunity to comment on any relevant implications for this appeal, and I have had regard to the revised Framework in reaching my decision.

Main Issues

3. The main issues in this appeal are the effect of the proposal on the:
 - Living conditions of nearby residents with regards to noise, disturbance and privacy; and
 - Highway network and road safety.

Reasons

Living Conditions

4. The appeal site is located at the end of a terrace of residential properties, within the hamlet of Dalehouse. It is proposed to change the domestic garden of the property to a tea garden, with 4 tables catering for up to 16 customers.
5. The site is in close proximity to the rear gardens of other properties extending along the terrace. Even within the quiet character of this hamlet, the rear gardens play an important role in providing a secluded and private area for residents.

6. Within this context, the appeal proposal would introduce a use which would be of a significantly different character and intensity compared to a domestic garden. The noise from customers talking and other associated activity would be readily apparent to nearby residents, as would the comings and goings of customers as they access and egress the tea garden. Even allowing for the limited scale of the proposal, the associated noise and disturbance would lead to significant harm to the enjoyment of rear gardens that neighbouring residents could reasonably expect.
7. The Authority has not asked for the issue of noise to be quantified through further assessment. However, due to the character of the rear gardens as a secluded amenity area for neighbouring residents, a more subjective assessment is appropriate.
8. Comments made locally also refer to the potential effect on the privacy of nearby properties. I saw that the proposal would enable unduly intrusive direct views for customers into the garden of an adjoining property, as well as other gardens along the rear of the terrace, particularly when customers are standing. The access to the proposal would also provide direct views of neighbouring gardens as well as along the communal rear access of the terrace, with commensurate harm to the privacy of nearby residents.
9. The tea garden would be set some distance to the rear of the terrace and is partially enclosed by outbuildings. However, even allowing for this layout, the proximity of the proposal and its relationship to nearby residential properties would lead to unacceptable harm to the living conditions of residents for the reasons I have identified.
10. The appellant refers to noise from a nearby beck. However, the noise from the beck was limited at the time of my site visit, and even when the flow of water is greater I am not persuaded that this would be sufficient to mask noise from customers and associated activity. Similarly, the means of enclosure would not be sufficient to suitably screen neighbouring properties from the noise and disturbance arising from the proposal. Even with the best intentions of the appellant with regards to maintaining the tranquil environment for customers, I consider that noise and disturbance from activity associated with the proposal would be unacceptably intrusive to nearby residents.
11. I therefore conclude that the proposal would lead to significant harm to the living conditions of nearby residents in respect of noise, disturbance and privacy. The proposal would therefore conflict with Strategic Policy J and policies CO17 and BL8 of the Local Plan¹ with regards to the harm to the immediate neighbourhood and the amenity of local residents.

Highway Network and Road Safety

12. The roads leading through the hamlet are not subject to traffic regulation orders and there was some on-street parking available at the time of my visit. However, despite the lack of on-street parking restrictions, the highway is relatively constrained and much of it is shared between vehicles, cyclists and pedestrians. The amount of on-street parking space is limited, and I am mindful that my visit took place during the day, when the peak demand for parking for residents of the hamlet is likely to be in the evening and at

¹ North York Moors National Park Authority Local Plan 2020

weekends. Furthermore, the level of custom and traffic associated with the proposal, as well as general tourist traffic, is likely to be greatest at weekends and holiday periods.

13. Within that context, there is a significant possibility that further on-street parking at peak times would increase collisions between vehicles as well as between pedestrians, cyclists and vehicles as a result of inconsiderate parking and convoluted manoeuvres due to the constrained nature of the highway. Similarly, an increase in on-street parking would also be likely to unduly limit the flow of vehicles and other road users through the constrained highway network of this hamlet. This would be the case even allowing for the limited scale of the proposal.
14. There is a large car park in the village of Staithes. However, this would not be a convenient alternative sufficient to deter many customers parking in Dalehouse due to the distance involved and the nature of the route, including the sloping topography.
15. The appellant emphasises that the proposal is aimed to cater for walkers and cyclists, and that customers would be discouraged from parking in the immediate area. However, this would be difficult to enforce, and I consider that it is inevitable that some customers would access the business by car and seek to park in the vicinity of the site for reasons of convenience.
16. For the reasons given above, I conclude that the proposal would lead to unacceptable harm to the highway network in this hamlet as well as road safety. The proposal would therefore be contrary to the highway capacity and safety requirements of policy CO2 of the Local Plan.

Other Matters

17. The appellant refers to activity which could be generated by the use of the site as a domestic garden as well as, potentially, a bed and breakfast. However, the intensity of activity and the turnover of customers of the proposal would be materially greater than the uses identified by the appellant.
18. I am mindful that the proposal would create employment, as well as the circumstances of the appellant's business as a result of Covid-19 including an informal operation on a limited takeaway basis. I have also had regard to the comments which have been made in support of the proposal. However, the employment benefits and level of support are not sufficient to outweigh the harm that I have identified.
19. The appellant refers to other cases in the National Park which they consider to be similar to the appeal proposal. However, it has not been demonstrated that the circumstances of those cases are a direct parallel to the appeal proposal, including in respect of the relationship with nearby residential properties, the characteristics of the area or the nature of the highway. In any event, I have determined this appeal on its own merits.
20. I have had regard to the appellant's concerns regarding the Authority's handling of the planning application, including consultation with the Highway Authority. However, this is not a matter for this appeal which I have determined on its planning merits.

21. The Framework sets out that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. However, even allowing for the potential to encourage access on foot and by cycling, the proposal would not be sensitive to its surroundings and would have an unacceptable impact on local roads, contrary to the provisions of paragraph 85 of the Framework.

Conclusion

22. The proposal would lead to unacceptable harm to the living conditions of nearby residents as well as the highway network and road safety, and would therefore conflict with the policies of the development plan. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR