



Appeal Decision

Site visit made on 9 March 2022

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 30th March 2022

Appeal Ref: APP/M2840/W/21/3282022

5 Oakwood Close, Desborough, Kettering, Northamptonshire NN14 2GQ

- 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 White against the decision of North Northamptonshire Council.
- The application Ref NK/2021/0363, dated 19 April 2021, was refused by notice dated 10 August 2021.
- The development proposed is described as 'This is a sturdy wooden outbuilding to the end of the rear garden popularly known as a 'grill cabin'. The building has no foundations, it is a single storey, standalone timber construction built to manufacturer's specifications and stood on sturdy plastic pallets to prevent decomposition, in turn the pallets are stood on an established and well-constructed natural stone patio. Externally the roof of the building is covered in red bitumen shingles. The planed shiplap timber sides, windows and door are all stained dark oak. The cabin is intended for private social use, predominantly for family resident at the address. Again constructed to manufacturer's instructions the cabin contains a barbecue grill and integrated chimney. There are 3 windows, all below eave height to the sides of the cabin, the window to the rear side is opening. The eave height sits at 1.43m well below the top of the existing brick wall and timber fence. The cabin is sited adjacent to the side brick wall and 0.25m from the rear timber fence of the property.'

Decision

1. The appeal is allowed and planning permission is granted for a grill cabin at 5 Oakwood Close, Desborough, Kettering, Northamptonshire NN14 2GQ in accordance with the terms of the application, Ref NK/2021/0363, dated 19 April 2021, and the plans NK/2021/0363/1, NK/2021/0363/2, NK/2021/0363/3, NK/2021/0363/4, NK/2021/0363/5 which were submitted with it, subject to the following condition:
 - 1) Only smokeless fuel shall be used in the development hereby permitted.

Procedural matters

2. The proposed development has been carried out and is the same as that which has been applied for. The description of development in the heading above has been taken from the planning application form. However, it is a very lengthy description that repeats detail that is included in the accompanying plans. I have therefore amended the description of the development to 'grill cabin' and I have determined the appeal on this basis.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupiers of 3 Oakwood Close with regard to smell, smoke and fumes.

Reasons

4. The grill cabin is located in the south eastern corner of the appeal property's back garden, adjacent to the rear boundary fence with No 3 and the side boundary wall that separates the rear garden from the street.
5. The hexagonal cabin has a central, open, solid fuel grill surrounded by bench seating. The cabin is advertised as being able to accommodate up to between ten and fifteen people. When in use a hood and flue above the grill draws the gases, fumes and cooking odours upwards to discharge to the air at an elevated height of 3.7m above ground level. Given the enclosed nature of the cabin and that the grill is open, in keeping with outdoor open air barbecues, only smokeless fuel is likely to be used, otherwise conditions within the building would be too unpleasant for use.
6. The starting point for assessing the development is that outdoor barbecues can be used without planning permission and can often be the focus of significant social gatherings in domestic gardens. Open air barbecues are often fuelled by charcoal and do not have flues. As a result, their use, which usually takes place during warm weather when neighbours may well have their windows open and be outdoors enjoying their gardens, results in emissions that are more likely to be noticed by neighbours due to not dissipating quickly.
7. With emissions discharging from the flue of the cabin at an elevated height, even with the raised cap over the cowl, they are likely to dissipate more quickly than emissions from a normal barbecue. Moreover, given that the prevailing wind direction in this country is between the west and south, emissions from the flue of the cabin are likely to be blown away from No 3 and its rear garden, towards the appellant's house and the street where it would dissipate. The shelter provided by the cabin means that, unlike an open air barbecue, it could be used by the household and socially during all seasons of the year. However, this has to be set against my observations regarding dissipation, the prevailing wind direction and that during cooler seasons neighbours are less likely to be outside in their garden or have windows open.
8. Should this prove not to be the case, and regular problems occur with emissions from use of the grill cabin affecting neighbours or the street, then the local authority has powers to investigate and take appropriate action under statutory nuisance provisions or highway legislation.
9. Taking all these matters into account, I therefore conclude that smell, smoke and fumes from the development do not have an unacceptable impact on living conditions at 3 Oakwood Close. The development therefore complies with policy 8(e) of the North Northamptonshire Joint Core Strategy which seeks to prevent such harm.

Other matters

10. The cabin is located close to the garden boundary with No 3. With its pitched roof though angling away from the boundary and its scale reducing upwards, it does not harm the outlook from the house at No 3 or its garden. In terms of its

design and materials, it complements the character and appearance of the area.

11. Use of the cabin is likely to generate some noise. However, it is a common and accepted feature that use of residential gardens, whether under open skies or under cover, generates some noise. With the cabin door facing away from No 3, and the cabin too small to sleep in, there is nothing about its design or location that indicates its use results in unacceptable levels of noise.
12. It is alleged that the development may be contrary to covenants attached to the title deeds of properties on the estate. This is a matter of civil law though, and as a planning application is determined on its planning merits, this is a consideration that has not altered my assessment of the appeal.
13. Paragraph 130(f) of the National Planning Policy Framework ('the Framework') advises that planning decisions should create places that have a high standard of amenity. Paragraph 185 of the Framework advises that decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. The Framework also advises at paragraph 152 that the planning system should support the transition to a low carbon future in a changing climate. The development adds to the amenity value of No 5 and the small size of the grill and prevailing wind direction means that it is appropriate for its location and does not have a material adverse effect on climate change, the natural environment or health.

Conclusion

14. The grill cabin complies with the development plan and the considerations put forward against it are insufficient to outweigh this. Material considerations therefore do not indicate that the proposal should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be allowed.
15. In order to minimise smoke, the Council has suggested that a condition should be attached allowing only smokeless fuels to be used. I agree with that suggestion. In the same suggested condition reference is made to requiring an accelerator cone to be fitted to the flue. However, the flue appears to have a standard cowl attached and I am not persuaded on the evidence that has been provided that such a cone is necessary to make the development acceptable. I have therefore deleted reference to an accelerator cone in the condition. As the cabin has already been built using the materials described in the application the materials and plans conditions suggested by the Council are unnecessary.

Ian Radcliffe

Inspector