



Appeal Decision

Site visit made on 15 August 2022

by J Downs BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2022

Appeal Ref: APP/N3020/W/22/3293642

The Wrinkly Lettuce Cafe & Bistro, 16 Main Road, Gedling, Nottingham, NG4 3HP

- 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 Janet Newton of The Wrinkly Lettuce Cafe against the decision of Gedling Borough Council.
 - The application Ref 2021/0693, dated 18 June 2021, was refused by notice dated 8 December 2021.
 - The development is described on the application form as 'to the rear of the garden, I have put decking up, which is approximately 25% to help the business. The Government advised no planning permission required, however I was not aware I would require Planning Permission, as the area is also used by the tenant in the flat above, also customers use for food, and in the evening 2x weekly if required'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal documents and my site visit confirm that the decking has been installed and I have dealt with the appeal on that basis.
3. The description of the development was altered during the application to include reference to a change of use and I have been provided with correspondence to that effect. However, there is a lack of clarity as to the extent that the implications of this have been fully communicated to the appellant who is representing herself. To avoid any unfairness arising, I am therefore considering this appeal as it relates to the installation of the decking only, as stated on the application and appeal forms.

Main Issue

4. The main issue is the effect on the living conditions of surrounding residents with particular regard to overlooking, noise and disturbance.

Reasons

5. The appeal site is a small commercial property, with a residential flat above. The attached neighbour is also in commercial use at ground floor. The detached neighbour is a residential property in domestic use. While I acknowledge that the site is within the Gedling Local Centre, its character in the vicinity of this site is mixed due to the small scale of the commercial properties and intervening residential properties to the remainder of the centre.

6. It is not in dispute that the rear garden area can legitimately be used by the appellant in the operation of their business, or that the business can operate for extended hours. However, it is clear from the pictures provided by the appellant of the area prior to the decking being installed and the pitch of the steps leading from the decking to the lower area of the garden that it would not reasonably have been possible for this area to be used by customers of the café. The introduction of the decking results in customers of the café being able to look directly into the rear gardens of the adjacent residential property. This would be for extended periods of time while sitting at the tables on the decking. This increase in overlooking and consequent loss of privacy has an unacceptable impact on the living conditions of the occupiers of that property.
7. At my site visit, I observed seating had been provided elsewhere in the garden area which could give rise to a degree of noise and disturbance. While the decking area does allow for a greater area of seating, it is a limited increase beyond the seating that exists elsewhere in the garden. I consider that the increase in noise and disturbance would not be materially beyond that which could occur from the accepted use of the garden area.
8. I have had regard to the appellant's case regarding the necessity of small businesses being able to adapt to the covid pandemic, how this has changed customer preferences and the economic benefits arising from the additional seating provided on the decking. However these benefits do not outweigh the harm to the living conditions of the neighbouring residents I have identified above.
9. In relation to this main issue, I conclude that the installation of the decking, due to the increase in overlooking and loss of privacy, has a significant adverse impact on the amenity of the neighbouring property contrary to Gedling Borough Local Planning Document Part 2 Local Plan adopted July 2018 Policies LPD32 and LPD50.

Other Matters

10. LPD Policy LPD46 relates to employment uses. While I acknowledge that Use Class E does include uses that previously fell within a B Use Class, in my view it is not directly relevant to this appeal.
11. I note the comments of the appellant with regard to how the Council dealt with the application and her interactions with other Council departments. However, addressing these concerns does not fall within the remit of this appeal, so I have given them no weight in its determination.

Conclusion

12. For the reasons given above, the appeal proposal would conflict with the development plan. There are no material considerations of sufficient weight to indicate that a decision should be taken otherwise. Therefore the appeal is dismissed.

J Downs

INSPECTOR