



Appeal Decision

Site visit made on 7 November 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2023

Appeal Ref: APP/R4408/W/23/3323046

12 Newark Close, Staincross, Barnsley S75 6NN

- 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 Mr Gareth Glyn Lloyd against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2022/1082, dated 18 October 2022, was refused by notice dated 21 February 2023.
 - The development proposed is described as 'This application is for a change of use for the outbuilding successfully completed for application reference number 2017/1032. This is to enable me to use the outbuilding to carry out leisure activities as a personal trainer on a 1:1 client basis which is class E. I have made a pre planning application and answered queries posted by both planning and building control officers. The outbuilding was done to a very high specification and there will be no additional works done to the building so there will be no significant adverse effect on residential amenity. Clients will be local people who wish to undergo a fitness regime in a good environment. There will be no group sessions, only 1:1 with no music played. All gym equipment will be coated to minimise noise and clients will be one every 1.25 hours with the first one per day either walking or cycling to sessions'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the above banner heading includes more than a description of the development itself and had I been minded to allow the appeal, it would have been necessary to amend it. Nevertheless, I have considered the information provided in my assessment below.

Main Issues

3. The main issues are (a) whether this would be a suitable location for the proposed development, with particular regard to the requirements of Policy TC1 of the Barnsley Local Plan¹ (LP) and the National Planning Policy Framework (NPPF) in relation to main town centre uses, (b) the effect of the proposed development upon the living conditions of occupiers of neighbouring residential properties, with particular regard to noise and disturbance, and (c) the effect of the proposal on highway safety, with particular regard to parking provision and manoeuvring.

¹ Barnsley Local Plan, Adopted January 2019.

Reasons

Suitability of location

4. The appeal site comprises a detached bungalow with parking to the front and garden to the rear, located on a cul-de-sac within a largely residential area. An outbuilding is located to the rear of the property, adjacent to the side and rear boundaries where it adjoins neighbouring gardens.
5. LP Policy TC1 sets out that support will be given to maintaining and enhancing the vitality and viability of a hierarchy of town, district and local centres. It sets out that a sequential approach will be used to assess proposals for new retail and town centre development, which will help to achieve the spatial strategy for the borough and will focus development on identified centres in the first instance. Edge of centre and out of centre development will only be allowed where the requirements of the NPPF are met. The supporting text explains that the main town centre uses to which the policy applies are defined by the NPPF and includes more intensive sport and recreation uses.
6. The appeal scheme seeks to change the use of the outbuilding from residential to commercial use, by a personal trainer. The appellant states that the premises would operate on a 1:1 basis of trainer to client, with sessions operating over 1 hour, with a 15-minute interval. As a result, there would be a maximum of five sessions per day based on the proposed operating hours. The scale of the outbuilding would limit any notable increase in the intensity of the use from that described.
7. The NPPF provides a definition of main town centre uses to which a sequential test should be applied. This definition includes 'more intensive sport and recreation uses'. The use of the outbuilding as described to me in the specifics of this case would not amount to a more intensive sport and recreation use, given the limited number of clients visiting each day. Consequently, the requirement to apply a sequential test is not triggered in these circumstances.
8. Having considered the requirements of LP Policy TC1 and the NPPF, with regards to main town centre uses, I find no conflict with these policies, and so, in principle, this would be a suitable location for the proposed development.

Living conditions

9. The appeal site is located on a cul-de-sac, albeit it lies close to Edgehill Road which is a through route. The spacing between properties is limited and rear gardens are small. As such, the appeal site has a close-knit relationship with surrounding dwellings at the side and rear. The area surrounding the appeal site is residential in character.
10. The appellant has provided an indication of noise levels for the site, as well as noise levels resulting from clay pigeon shooting activities that occur nearby, along with their frequency. However, I have limited information as to how these noise levels have been determined, such as timings/duration of recordings, the location and type of equipment used, and in what circumstances. As such, I cannot be certain that they follow any recognised standard for the preparation of such readings, or consequently that they

represent a true reflection of the typical background noise environment, and so I give this information limited weight.

11. The appeal scheme has the potential to generate noise and disturbance both in terms of clients repeatedly arriving and departing, and the use of the outbuilding itself. This would involve fitness training and sports massage, with some use of equipment and machinery (such as dumbbells/kettlebells, battle ropes, rowers).
12. Some clients may arrive by bicycle or on foot, but others could arrive by car and this could not be controlled by the imposition of a condition. Those arriving by car would either park on the driveway of No 12, or on the road. The outbuilding would then be accessed via a side gate and path, which is separated from the neighbouring property by a high fence. The potential for noise and disturbance arises from vehicle engines, doors closing, car radios and conversations when accessing or leaving the building.
13. Many of these potential sources of noise and disturbance are not in themselves uncommon in a residential area. They would be for short bursts, albeit at intervals throughout the day. The amended operating hours proposed for the appeal scheme would not be during the early morning or late into the evening when surrounding residents might reasonably expect there to be a quieter and less active environment. Training would be provided 1:1 with intervals so clients did not overlap. Conditions could be imposed to control operational hours as well as the number of trainers and clients in the building at any one time. As such, the comings and goings associated with the proposed development at the level of activity outlined, would not materially harm the living conditions of occupiers of neighbouring properties.
14. Turning to the use of the outbuilding itself, no music would be played on the premises and this could also be controlled by the imposition of a suitable condition. However, there would be noise associated with raised voices, providing instruction for example, as well as noise associated with use of training equipment and machinery.
15. I note a commitment to invest in quiet machinery, and that individual weights would be coated in silicone and other equipment is of a rubber recycled construction, to minimise impact. Clients would be advised on the correct use of such equipment which may also minimise noise. However, whilst I have been provided with some noise levels likely to be generated by the use of certain equipment and machinery, which the appellant considers to be the loudest, there is limited explanation as to how these noise readings have been obtained and so I cannot be certain that they are representative. Nor do they consider noise associated with voices giving instruction.
16. The outbuilding is of solid construction. Double glazing has been utilised and windows face into the appellants garden only. I am advised that flooring in the outbuilding is designed to cushion impact and ameliorate noise and that there is double insulation. As such, the building itself could provide some reduction in noise transmission to the outside. Additionally, existing boundary treatment could also mitigate some noise. However, the extent of any noise reduction achievable by these measures is not demonstrated by the information before me through any robust assessment.

17. Further, noise transmission would vary if doors and windows are open or shut. I note the appellant's willingness to keep doors and windows closed at all times, and that the Council's Pollution Control Section has raised no objection to the proposal subject to the imposition of a condition to this effect. However, I would question the reasonableness of such restrictive measures, particularly in the warmer months, given the nature of the proposed use.
18. The appellant states that policy excludes small users from the requirement to produce a noise impact assessment. However, no precise policy reference has been provided to me in this regard. Whilst there may be no policies defining a specific separation distance between commercial uses and dwellings, a judgement remains necessary in each case.
19. The appeal building lies very close to neighbouring dwellings and private gardens. Without reliable information relating to noise generation, I am unable to conclude that the appeal scheme would operate whilst maintaining satisfactory living conditions for occupiers of adjoining dwellings.
20. Consequently, the proposal would harm the living conditions of occupiers of neighbouring properties, with regard to noise and disturbance. It would conflict with LP policies GD1 and Poll1, which collectively and amongst other matters, seek to ensure that new development will have no significant adverse effect on the living conditions and residential amenity of existing and future residents, including from noise. The proposal would also conflict with paragraphs 130 and 185 of the NPPF, which require new developments to function well and add to the overall quality of an area, provide a high standard of amenity for existing users, and ensure that new development is appropriate for its location, taking into account the likely effects of pollution on health and living conditions.

Highway Safety

21. LP Policy T4 states that new development will be expected to be designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement. Additionally, the Council has adopted Supplementary Planning Document Parking (2019) (SPD), which sets out at Table 1, car parking standards by use. The SPD explains that these are broad categories and that the parking requirements are an indicative figure only of what could be considered acceptable.
22. The Highway Authority response suggests that the appeal scheme would require 1 parking space for the practitioner, 1 space for a client and an additional space for a client waiting for an appointment. This would be in addition to 1 parking space for the existing dwelling if it has 1-2 bedrooms, or 2 parking spaces if it has 3-4 bedrooms. This response does not specify which category of use the appeal scheme has been considered under, in relation to Table 1.
23. The proposed development could give rise to an increased demand for parking, albeit some clients may arrive on foot or by bicycle. Noting that the owner of No 12 would be the practitioner and that the business would operate on a 1:1 basis only with 15-minute intervals, it seems unlikely that the full number of parking spaces suggested by the Highway Authority would be necessary.
24. The proposed plans indicate a parking layout to the front and side of No 12 for 4 vehicles. There is dispute between the main parties as to whether this

- number of spaces is achievable. Manoeuvring for some spaces would not be possible if other spaces were occupied. However, off street parking for at least two vehicles appears to be achievable, whilst also retaining reasonable pedestrian access to the outbuilding via the side gate.
25. Use of these spaces would appear to require reversing onto or off the highway. This is likely to be the case for the occupiers of No 12 at present, and for other residents on Newark Close. Traffic speeds close to the appeal site will be influenced by the short length of the cul-de-sac and the proximity to the junction. The property has a relatively wide access and dropped kerb, as well as low boundary walls to its frontage, which allow a reasonable level of pedestrian and vehicle visibility. As such, any increase in reversing manoeuvres onto or off the highway resulting from the proposal, would not be unsafe or inconvenient.
26. Any additional parking demand would then need to be met on street. On street parking is available on Newark Close and most properties within the cul-de-sac benefit from off street parking. There is no substantive information before me to suggest that there are any ongoing issues with parking locally, or access to the cul-de-sac. Nor has it been demonstrated that if cars parked on the road or near to the junction, that this would have a harmful effect on highway safety, including access for emergency vehicles. There are no restrictions in place at present to prevent parking on the road or up to the junction.
27. As such, taking account of the operation of the proposed development and local circumstances, and in the absence of any substantive evidence of a local parking issue or that an increased reliance on on-street parking would prejudice highway safety, I conclude that the proposal would not result in harm to highway safety, with particular regard to parking and manoeuvring. The proposal would not conflict with LP Policy T4, the purposes of which have been set out above.
28. Further, the proposed development would accord with paragraph 111 of the NPPF where it seeks to ensure that development is only prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

29. The appellant states that the proposal would have financial benefits for the business in terms of rental costs and bills, as well as offering the appellant an improved work life balance, and clients a better environment. I note some local support for the proposal, on the basis that it would be a positive for the community, providing mental health and wellbeing benefits as well as a deterrent for crime. However, these benefits do not outweigh the harm I have identified in relation to the impact on living conditions of occupiers of neighbouring properties.
30. No concerns have been raised in relation to overlooking. In design terms, the outbuilding has already been found to be acceptable and I note that it is largely screened from public view along Newark Close. However, these are neutral matters that do not way for or against the proposal.

31. A number of concerns have been raised by third parties, the majority of which relate to the main issues, and they have been considered as part of the assessment above. Concerns relating to property values and any restrictions on use within the property deeds are private interests.

Conclusion

32. I have found that in principle, this would be a suitable location for the proposed development, with regard to local and national policy relating to main town centre uses. Additionally, the proposed development would not result in any significant harm to highway safety. However, these matters do not outweigh the unacceptable harm the development would have on the living conditions of occupiers of neighbouring residential properties, with specific regard to noise and disturbance. For these reasons, the appeal scheme would conflict with the development plan taken as a whole, and there are no other material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

S Brook

INSPECTOR