



Appeal Decision

Site visit made on 14 November 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2023

Appeal Ref: APP/A1530/W/23/3315835

311 Ipswich Road, Colchester, Essex CO4 0HN

- 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 D Olufunmilayo against the decision of Colchester City Council.
 - The application Ref 222623, dated 18 October 2022, was refused by notice dated 19 December 2022.
 - The development proposed is continued use of an outbuilding as holiday let accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have slightly amended the description of development in the interest of clarity.
3. I understand the outbuilding has planning permission (application reference F/COL/07/0129) for use as a residential annexe, subject to a condition restricting occupation to dependent relatives of the residents of the main dwelling.
4. The application form states the development was completed in July 2022. I saw during my visit that the outbuilding is fitted out ready for occupation and there is evidence before me of advertisements for, and reviews of, holiday lettings at the premises. I have therefore considered the appeal on the basis that the development has already taken place, as did the Council.

Main Issues

5. The main issues are:
 - the effect of the development on the living conditions of neighbouring occupiers, with particular reference to noise and disturbance; and
 - highway safety.

Reasons

Living conditions of neighbouring occupiers

6. The outbuilding is within the garden of the host dwelling, close to the rear of the main house. There is little to differentiate an area of the garden for separate use by tenants of the holiday let. The advertising material before me invites holiday tenants to use the facilities in the main garden, such as the

- barbecue, hot tub, pool table and table tennis table. I therefore find, on the balance of probability, that the outside space is shared between the host dwelling and the holiday let accommodation.
7. When in use as a residential annexe, those occupying the outbuilding were part of the same household as those occupying the main house. However, as a holiday let the outbuilding is occupied by people who are unconnected to those occupying the main house. They therefore belong to different households.
 8. Different household schedules are likely to include leisure activity at different times of the day. In addition, those wishing to relax while on holiday can reasonably be expected to use the outside facilities more often and later into the night than the permanent residents of the main house during a normal working week. Given the narrow plots and resulting proximity of nearby houses, even normal levels of talking by those using the hot tub, eating or playing games outside are likely to be heard by neighbouring occupiers. This level of activity will be compounded by a succession of different holiday tenants all wishing to optimise their use of the facilities during their stay.
 9. Furthermore, the holiday let is likely to generate a higher level of comings and goings from the appeal site than a single household, associated with tenants leaving and arriving on changeover days, and going out on day trips and/or in the evenings. Overall, therefore, noise and disturbance generated by the main household plus a household on holiday is likely to be materially greater than that generated by the main household alone, even allowing for those living in the annexe.
 10. I note the 'House Rules' restricting the number of occupants and forbidding use of the holiday accommodation for parties. However, there is little before me to demonstrate whether and how these rules are enforced. Indeed, one advertisement states the one-bedroom unit could be occupied as a two-bedroom unit. I am also not persuaded the prospect of a tenant receiving a poor review on the lettings app is a sufficient sanction to prevent behaviour resulting in noise and disturbance. A low level of complaints to the Council's Environmental Protection service does not in itself demonstrate an absence of harm. Whilst I note the provisions of the Environmental Protection Act, I have considered the appeal on its planning merits.
 11. For the above reasons, I conclude the effect of the development on the living conditions of neighbouring occupiers, with particular reference to noise and disturbance, is harmful. This is contrary to Policies DM5, DM13 and DM15 of the Colchester Borough Local Plan 2017-2033 Section 2 (CPLP2), which, amongst other things, support new visitor accommodation subject to minimising its impact on neighbouring areas; and require development to protect residential amenity with regard to noise and disturbance. It is also contrary to the National Planning Policy Framework (the Framework), which seeks a high standard of amenity for existing users and requires development to mitigate and reduce to a minimum potential adverse impacts resulting from noise.

Highway safety

12. The parking plan shows a parking space for use by occupants of the holiday let to the side of the host dwelling, and two spaces for occupants of the main house in front of that dwelling. Ipswich Road is a busy main thoroughfare with

double yellow lines outside the appeal site. The footway runs immediately along the site frontage.

13. To join the highway in forward gear, a car that has entered the holiday let parking space in forward gear first needs to reverse into the area at the front of the host dwelling. The space between the side wall of the main house and the site boundary is narrow, so such a manoeuvre would be very difficult unless the parking space nearest the highway is completely free of cars. Even then, the available space would allow little margin for error. Moreover, a further tight turn in forward gear is required to access the highway. This is likely to require more than one manoeuvre for some cars, particularly when turning right onto the road.
14. Taking all these factors together, I find there is a risk of conflict between vehicles in the forecourt of the appeal premises, and with pedestrians on the crossover, as cars manoeuvre to join the carriageway.
15. I acknowledge the Highway Authority did not object to the proposal. I also accept the parking layout is already in use and that there is sufficient space on the appeal site to provide the required number and size of parking spaces. However, these considerations are not enough to establish an absence of harm. No tracking diagrams have been provided by the appellant. Overall, there is insufficient evidence before me to demonstrate how a safe exit from the holiday let parking space to the highway can be achieved when the other parking spaces are in use.
16. For the above reasons, I conclude the development has an unacceptable impact on highway safety. This is contrary to Policy DM21 of the CBLP2, which requires safe and convenient layouts that minimise conflicts between highway users. It is also contrary to paragraph 111 of the Framework, which states development should be refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

17. There is little to substantiate the suggestion that the main house is also rented for holiday lets. This consideration has not had a material bearing on my decision.

Conclusion

18. I have found the development conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

C Carpenter

INSPECTOR