



Appeal Decision

Site visit made on 19 January 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2024

Appeal Ref: APP/X2220/W/23/3327477

17 Archers Court Road, Whitfield, Kent CT16 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 Mr Smith against the decision of Dover District Council.
 - The application Ref 23/00514, dated 12 April 2023, was refused by notice dated 8 June 2023.
 - The development proposed is described as 'conversion of a permitted development outbuilding to a holiday let'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I observed during my site visit that the proposed works associated with the change of use had already been undertaken.
3. During the consideration of this appeal the revised National Planning Policy Framework 2023 (the Framework) has been published. The main parties have had the opportunity to comment on the relevance of the Framework to this appeal.
4. The new Dover District Local Plan (the DDLP) is currently under examination and was subject to hearing sessions at the end of 2023. Its policies do not yet form part of the development plan, however I have had regard to the emerging policies referred to by the Council below.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of adjoining occupants, with particular regard to noise disturbance and privacy.

Reasons

6. The appeal site lies within a built-up area which includes outbuildings and development within the rear gardens of varying degrees, as well as some accesses which run between the properties. The outbuilding which is the subject of this appeal is accessed via a pathway which runs along the western edge of the garden of no.17 and adjacent to the boundary with no.15. The plan refers to a 1.8m tall timber fence along the boundary with no.15, however this does not extend along the whole boundary. Most of this boundary is a hedgerow which allows views over and into the garden of no.15 and its rear facing windows, where the occupants would have a reasonable expectation of privacy.

7. Occupants of the holiday let would use this path as their only access and may use it several times throughout the day. As such the proposal would cause a significant and harmful loss of privacy to the occupants of no.15. While the holiday let may not be occupied every day of the year and would be managed by the occupants of no.17, a loss of privacy would nonetheless occur when it was in use.
8. Some degree of noise disturbance could also occur from occupiers of the holiday let using the path and designated outdoor space. However, given the scale of the outbuilding and its likely level of occupation, the level of noise would be typical of the use of a residential garden and any noise disturbance experienced is unlikely to be significant. Neither would the level of activity be harmful to the character of the area, given the presence of other accesses and back-land development nearby including at no.11b.
9. The site adjoins the side wall of no.21A Archers Court Road to the north. The main windows and openings of the outbuilding, and its access and outdoor space, are positioned away from the boundary with no.21A. While activity from the appeal site may be perceived by occupants of no.21A, given the scale and orientation of the outbuilding, the proposed use would not cause unacceptable harm to the living conditions of occupants of that property.
10. For the reasons given, the development would cause significant harm to the living conditions of occupants of no.15 through a loss of privacy. As such the proposal would be contrary to emerging Policy E4 of the DDLP insofar as it requires self-catering tourism accommodation not to have an adverse impact on the living conditions of existing adjoining residents. This policy has not yet been adopted and I do not have evidence to suggest whether it is likely to be adopted in its current form. As such I give this conflict moderate weight. The proposal would conflict with the Framework insofar as it seeks to create places with a high standard of amenity for existing and future users.

Other Matters

11. Despite the reference in the reason for refusal to layout and character, the Officer's Report also acknowledges the development is of an acceptable form and respects its context. Given the scale and position of the building, and presence of development in other rear gardens nearby, the proposal would be acceptable in terms of its visual effects.
12. I note the other concerns raised by the Council, including those relating to access to the highway and fire risk. However those matters do not require further consideration here, given they would not change the outcome of the appeal.

Planning Balance and Conclusion

13. The Council have not identified any relevant development plan policies in this case, only the Framework and policies of the emerging local plan. Therefore paragraph 11d) of the Framework is relevant to the appeal. As set out, the proposal would cause harm to the living conditions of occupiers of no.15. Despite being intermittent, this would be significant and long lasting, and would present conflict with the Framework. I therefore give that harm substantial weight. In terms of benefits, the proposal would provide tourist accommodation in an area of demand and with good accessibility to services including public

transport. Together these benefits attract moderate weight given the scale of the proposal. As such, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The proposal does not, therefore, benefit from the presumption in favour of sustainable development.

14. For the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR