



Appeal Decision

Site visit made on 9 July 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 29TH July 2024

Appeal Ref: APP/C1950/D/24/3341505

6 Blackthorn Road, Welwyn Garden City, AL7 3JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Natalia Ortynskaia against the decision of Welwyn Hatfield Council.
 - The application Ref is 6/2023/2275/HOUSE.
 - The development proposed is installation of Skate Ramp and pergola for Roller Skating purposes.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application form described the proposed development as "Proposed Skate Ramp for Roller Skating purposes". The council changed this to the description used in the heading above. I have adopted it as it more clearly identifies the development proposed.
3. The planning application was for retrospective permission since the development is basically complete. However, at my site visit I saw that it did not have a pergola covering the skating surface, although it is shown on the application drawings. I will consider that it is intended to be part of the development, although, should I decide that planning permission for the ramp could be given but the pergola would be unacceptable, I could remove it from the permission by way of a condition.

Main Issues

4. The main issues in this case are the effect of the proposals on the occupiers of adjoining properties: i) through noise impact; and ii) through overlooking from the raised platforms and loss of privacy in the adjacent garden areas.

Reasons

5. The appeal dwelling is a 2-storey end of terrace house within a mainly residential area, although the Swallow Dell Primary School is located nearby to the north-west. The skate ramp runs across the back of the rear garden of the appeal property, and is built up to the shared boundaries with the neighbours on either side at Nos.4 and 8 Blackthorn Road and the neighbours to the rear at No.94 Wellcroft Road and No.4 Lowerfield.

6. The skating structure has platforms on either side above the ramps that connect to a lower horizontal surface. The platforms are shown to be 1.06m above ground level, with the top of the side horizontally boarded screens being 2.1m above ground level. The pergola would have separate vertical supports, so that the upper surface would be 2.4m above the lower skating surface (approximately 2.6m above ground level). The structure is shown to be 8.5m across the garden, from one curtilage boundary to the other. The side elevation is shown to measure 4.88m towards the house from the rear curtilage boundary. The appellants propose side trellis and textile/vegetation cover at the sides to enhance privacy.

The effects of noise.

7. Policy SADM18 of the Local Plan is the most relevant development plan policy, in particular that part of the policy that deals with Noise and Vibration. It seeks to resist development that would generate unacceptable noise or vibration pollution. It requires a Noise and Vibration Impact Assessment for proposals with the potential to cause disturbance to people (or the natural environment) due to noise and/or vibration. Since roller skating ramps within a compact residential setting bring reasonable concerns about noise impact on neighbours' amenity, I consider that this is a case where a Noise and Vibration Impact Assessment should be produced in line with the requirements of this policy.
8. In this connection I note that the council's Public Health and Protection team has assessed the application and has raised an objection to the proposal. The comments note that the installation and use of a skate ramp in the rear garden of a residential property is likely to cause an adverse impact to neighbours, noting that a skate ramp is not a typical use associated with a garden, and the noise from wheels on the ramp is likely to be significant. That response acknowledges the submission in relation to noise mitigation, but considers that this would not be likely to prevent a disturbance and the development would give rise to noise complaints. A further concern that is highlighted by this team is that skateboards might be used at future times, which might well be noisier and would be difficult to control in perpetuity. It is important to note that whilst the supporting information suggests only roller skates would be used and not skateboards which would potentially be noisier, a restriction to only roller skates is not a reasonable approach to controlling noise, as a condition would be very difficult to enforce.
9. To counter this, the appellants states that, given the cost of a noise assessment, they made their own measurements to better understand the noise levels. They used noise measuring applications available to download for mobile devices and observed a number of fairly common sources of noise in a residential area. These are set out in the Statement of Case and include a neighbour's lawnmower measured at 60-80dB, their own electric mower at 80dB, children playing in a garden 2 houses away (60-80dB from their garden) and children at play time at the school (40-60dB from their front door). Roller skating noise was measured at 40-50dB from within their garden.
10. I cannot accept these measurements as being the equivalent of a survey carried out by a qualified individual with properly calibrated instruments, and complying with the relevant British Standard. However, taking a practical approach in the absence of reliable measurements, it is highly likely that the noise, and possibly vibrations, from the use of the roller skating ramps, would

be intrusive and disturbing to the amenity of neighbouring private gardens. I can see that these effects could arise from being unexpected in a residential environment, the continuous or variable sound and the duration. I do not consider that, for instance, a lawn mower which will normally be relatively infrequent and of fairly short duration, or the sound of children for limited periods at a nearby school, are reasonable comparators. They are commonplace, and accepted for what they are and the need for those activities in residential areas. For these reasons I consider that it is necessary to take a precautionary approach, and without exact evidence to the contrary, give the benefit of that caution to the neighbouring occupiers who are entitled to expect normal enjoyment of their outdoor amenity space.

Privacy

11. Inevitably, the use of the skate ramps would involve standing on the raised platforms on either side, albeit for limited periods of time. There could be screening employed to the sides, but that would leave diagonal views from the open end facing the house at an adult's eye height materially above 2m high fencing, and would be intrusive in itself. This level of intrusion is not appropriate on the private side of residential development.

Conclusions

12. I have taken account of all other matters raised including the offer of inviting friends and neighbours to use the facility (which would add to the length of time that it would be in use) and the benefits to the appellants in being able to follow their hobby, which no doubt is healthy exercise. None of these matters outweighs the consideration that have led to my decision. For the reasons given, the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR