



Appeal Decision

Site visit made on 30 July 2024

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th August 2024

Appeal Ref: APP/P2114/W/23/3328205

20 Norman Way, Wootton, Isle of Wight PO33 4NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Lailey against the decision of Isle of Wight Council.
 - The application Ref 22/01586/FUL, dated 2 September 2022, was refused by notice dated 22 February 2023.
 - The development proposed is continued use of outbuilding as mixed residential / and commercial use (Martial Arts Studio).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form described the proposed development as "mixed residential / sui generis use" and states that the work or change of use was completed 20 August 2018. The Council changed the application form description to the description used in the banner heading above. The appellant's appeal statement advises that tai chi exercise classes and teaching are provided to a small number of people in the garden chalet. The appellant's appeal statement addendum advises that tai chi was originally created as a form of martial art and that, today, it is practised as a health-promoting, low-impact activity.
3. The appellant's response¹ to a notice (PCN) issued under Section 171(c) of the Act provides details of the number of martial arts classes held at the application site during an average week. The PCN response advises that the appellant teaches oriental mental health, health safety and awareness disciplines by way of tai chi and other physical meditative movements not "martial arts". The PCN response also advises that teaching takes place in a temple not a studio and that classes are not open to the general public but up to 20 select students and not for leisure.
4. The description of the proposed use as 'sui generis' does not describe the proposed use of the site. Based on the submissions before me, the Council's wording provides a clearer description of what is being proposed. I have accordingly dealt with the appeal on the basis of that revised description.

¹ Response dated 17 June 2022

Main Issues

5. The main issues are the effect of the development on:

- the living conditions of the neighbouring occupiers, with particular regard to noise and disturbance; and
- traffic generation and parking on the surrounding public roads.

Reasons

Living conditions

6. Norman Way is a residential street characterised by bungalows set-back from the highway behind open areas of landscaping, parking, and driveways. 20 Norman Way is located on the eastern side of the street and access to its rear garden is provided through a timber gate located between the southern elevation of the dwelling and its flat roof garage. A number of outbuildings are located within the rear garden, the largest of which (the outbuilding) has the appearance of a timber summerhouse and provides the space used for the tai chi exercise classes and teaching.
7. The rear garden to no 20 shares boundaries with four neighbouring properties, 18 and 22 Norman Way to the sides, and 71 and 71a Church Road to the rear. The outbuilding is in particularly close proximity to the shared boundaries with nos 18, 71 and 71a, and is separated from those adjoining gardens by timber closed boarded fencing.
8. The submitted plans indicate that the outbuilding measures 4.7 m by 5.925 m, giving a gross external floor area of approximately 27.8sq m. The appellant advises that classes are small and limited in frequency and duration. The PCN response advises that 14 classes are held during an average week, with no more than 4 on any single day. The PCN response indicates that the maximum number of clients in any single day is 13 (on a Wednesday), but that many days see significantly fewer clients visiting the site.
9. I have not been provided with a formal assessment of the noise generation that results from the use of the outbuilding for the tai chi exercise classes and teaching. Objections to the noise generated by the use have, however, been submitted by neighbouring occupiers. Those objections advise that the use generates banging and shouting noises that are detrimental to the enjoyment of neighbouring occupiers' private rear gardens. Neighbouring occupiers have also objected to the disturbances that arise from clients visiting the site, including loud conversations, inconsiderate parking, and occasionally trying to enter the wrong rear garden by mistake.
10. The outbuilding is of lightweight timber construction and has significant amounts of glazing. The design of the outbuilding is, therefore, unlikely to meaningfully contain or absorb noise generated within the building. Whilst the absolute level of noise generated by the tai chi exercise classes and teaching may not be as high as, for example, a lawn mower, the noises generated are more likely to be unexpected or surprising within a residential garden environment. The objections received from neighbouring occupiers are evidence that the commercial use of the outbuilding for the teaching of tai chi has, in the past, resulted in noise that is intrusive and disturbing to the amenity of neighbouring private gardens.

11. I find it is also likely that the regular coming and goings of clients results in a harmful increase in noise and disturbance within an area of private rear gardens where it is reasonable for adjoining occupiers to expect a high degree of tranquillity.
12. Consequently, the development is, therefore, harmful to the living conditions of neighbouring occupiers who are entitled to expect the normal peaceful enjoyment of their outdoor amenity space. It is, therefore, contrary to Policy DM2 of the Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document 2012 (the CS) and the Framework. Taken together, amongst other things, these policies require development to be of high-quality design that provides a sense of place and delivers high standards of amenity for neighbouring occupiers.

Highways

13. Norman Way is an unclassified public highway without on-street parking restrictions. The dwellings on Norman Way generally have off-street parking space, many on the eastern side of the road, including no 20, have space for 3 vehicles. The use of the outbuilding for tai chi exercise classes and teaching would inevitably generate additional vehicular trips to the site and increased on-street parking on Norman Way.
14. The Highway Authority (HA) has not objected to the effect of the development on the highway, advising that there is adequate space on the local highway network to accommodate the anticipated demand resulting from the development. In reaching this view, the HA assumes that the outbuilding would be limited to accommodating a maximum of 3 clients. The application details do not state a maximum class size. The small scale of the outbuilding would, however, significantly limit the numbers that could partake in active exercise classes within the outbuilding.
15. I note that neighbours have objected to visitors to the outbuilding parking inconsiderately in the past. Whilst that may well be the case, there is no substantive evidence before me to indicate that local on-street parking is regularly at, or above, capacity. At the time of my site visit, there was very limited on-street parking, and significant off-street parking capacity to the front of dwellings. My observations in this regard reflect the findings of the HA. In the absence of any substantive evidence of historic parking capacity issues, I must give significant weight to the expert consultee response of the HA.
16. As such, I do not find the effect of the development on traffic generation and parking in the local area to be harmful. The development does not, therefore, in this regard, conflict with Policy DM2 of the CS or the provisions of the Framework.

Other Matters

17. I have had regard to the benefits of the development. The teaching of tai chi represents a positive effect on the health and social well-being of the local community. It also provides a level of employment and therefore an economic benefit also. The small scale of the proposal means that these benefits are, however, quite limited. Furthermore, it is not clear that such benefits could not be equally achieved by the teaching of tai chi in a more suitable local venue.

18. I have also had regard to other concerns raised by neighbours. As I am dismissing the appeal on the first main issue for the reasons given above, I have not addressed those other matters further as the considerations are not determinative to my decision.

Conclusion

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise.
20. Whilst the development results in some limited benefits, those benefits are clearly outweighed by the harm to neighbouring occupiers living conditions. The development conflicts with the development plan when read as a whole and there are no other considerations that outweigh that identified conflict.
21. For the above reasons, the appeal is dismissed.

S D Castle

INSPECTOR