



Appeal Decision

Site visit made on 16 July 2024 by Darren Ellis MPlan MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Appeal Ref: APP/T3725/W/24/3337246

Royal Oak, 36 New Street, Kenilworth, Warwickshire CV8 2EZ

- 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 Mr A Smith against the decision of Warwick District Council.
 - The application Ref is W/23/0625.
 - The development proposed is a barbeque shed to the rear garden area.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. At the time of my site visit, the shed had already been mostly constructed although the barbeque units, extraction equipment and flues had not been installed. I have therefore proceeded on this basis.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings, with particular regard to fumes and odour.

Reasons for the Recommendation

5. The barbeque shed has been constructed in very close proximity to Nos 38A and 40A New Street, and the flues would be towards the rear of the shed and very close to a window and rooflights at No 40A. I understand that the barbeque units have been designed to contain the smoke and the extraction equipment is intended to minimise the egress of ash and fumes. However, the venting of even small amounts of smoke, fumes and/or other emissions in such closeness to windows in residential properties would be unpleasant for the neighbouring occupiers and could force them to keep the windows and rooflights closed while the barbeque units are in operation. This would be far from fair to those occupiers and, as a result, cause unacceptable harm to their living conditions. As such, the scheme would conflict with Policy BE3 of the Warwick District Local Plan (2017), which requires development to not cause an unacceptable impact on the living conditions of nearby residents.

6. The proposal would bring economic and community benefits; however, these would be modest due to the limited scale of the proposal. I also note that a number of representations have been received in support of the scheme. Overall, I afford these matters moderate weight, which would not be sufficient to overcome the substantial weight I would ascribe to the harms I have found and the subsequent development plan conflict.

Other Matter

7. The appeal site lies within the Kenilworth Conservation Area, and the pub building itself is a grade II listed building. Due to the limited scale of the shed and its position to the rear of the pub building, the proposal would conserve both the character and appearance of the Conservation Area and the setting of the listed building. I note the Council drew similar conclusions in this regard.

Conclusion and Recommendation

8. I recommend that the appeal be dismissed because of the conflict with the development plan and there being no material considerations worthy of sufficient weight which indicate that a decision should be made other than in accordance with the development plan.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

9. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

John Morrison

INSPECTOR