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# Appeal Decision

Site visit made on 4 January 2016

**by Matthew Birkinshaw BA(Hons) Msc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1<sup>st</sup> February 2016**

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**Appeal Ref: APP/N2535/W/15/3138603**

**Skittlestone Cottage, Front Street, Normanby-by-Spital, Market Rasen, LN8 2EB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mrs Adele Crowther against the decision of West Lindsey District Council.
  - The application Ref 133330, dated 27 July 2015, was refused by notice dated 22 September 2015.
  - The application sought planning permission to convert the barn into a dwelling without complying with conditions attached to planning permission Ref 98/P/0752, dated 24 November 1998.
  - The condition in dispute is No. 4 which states that: "*The converted building shall be used and occupied in conjunction with the existing dwelling known as Skittle Stone House and shall not be occupied as a single unit of living accommodation.*"
  - The reasons given for the condition are: "*The converted building, if occupied as a single unit of living accommodation, would provide inadequate private amenity areas and would prejudice amenities by overlooking.*"
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## Decision

1. The appeal is dismissed.

## Background and Main Issues

2. In 1998 planning permission was granted for the conversion of a barn adjacent to Skittlestone House (Ref 98/P/0752). Condition no.4 states that the barn must be used in conjunction with the property and not occupied independently. The reasons for the condition are to prevent a loss of privacy and ensure that an adequate amount of private outdoor space is provided.
  3. In seeking to remove the condition the appellant states that overlooking issues have been resolved by the installation of obscure glazing, and would be limited further by new fencing. It is also stated that both properties would have more private outdoor space than many houses nearby.
  4. Taking this into account, and also the original reasons for the condition, the main issue is:
    - Whether or not condition no.4 is necessary in the interests of the living conditions of the occupants of Skittlestone House and Cottage, having particular regard to privacy and the adequacy of private outdoor space.
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## Reasons

5. Skittlestone Cottage is a converted barn with living accommodation at ground and first floor level. Its principal elevation faces almost directly onto the side of Skittlestone House. Both buildings are currently accessed from the same shared garden.
6. As part of the evidence before me is an appeal decision relating to a similar proposal on the site in 1999, Ref T/APP/N2535/A/99/1027917/P4. This also sought permission to occupy the converted barn without complying with condition no.4, and addressed largely the same issues.
7. In order to equally divide the plot a fence measuring roughly 2m high is proposed in between the two buildings. This would restrict views between the properties at ground floor level. Although the subsequent garden serving the converted barn would be relatively small and north facing, it would nonetheless be commensurate with the size of the cottage. Potential future residents would also be aware of its size and orientation before deciding to occupy the property, as recognised by the previous Inspector.
8. In contrast to the 1999 appeal obscure glazing has also been installed in some of the side facing windows at Skittlestone House. However, due to the orientation of Skittlestone Cottage potential future occupants would still be able to look directly into the reconfigured garden space of the house below from first floor level. When also bearing in mind the limited degree of separation between the buildings, which the previous Inspector described as roughly 10m, the first floor windows in the cottage would give rise to a harmful loss of privacy.
9. Likewise, due to the limited space available the principal garden area for the cottage would be adjacent to its gable end. In this location it would be directly overlooked from the side facing front bedroom window at Skittlestone House. Even with the use of obscure glazing, the side facing bedroom window of the neighbouring property, 'Nevasa', would also overlook the small garden. As a result, neither house would benefit from any private sitting-out area. Although there is already a degree of mutual overlooking due to the tight-knit layout of the immediate surrounding area, I concur with the previous Inspector that such an unneighbourly situation would be wholly undesirable. Based the evidence provided there is also nothing to indicate that the 'rules' regarding proximity or overlooking have been relaxed since the previous appeal as asserted by the appellants.
10. In reaching this view it is appreciated that the bedroom window in the side of 'Nevasa' has always looked out over the existing garden and side elevation of Skittlestone House. However, the position of the converted barn ensures that some parts of the existing garden are screened from view. This would not be the case under the appeal proposal.
11. During my site inspection I also saw that a window serving the kitchen at Skittlestone House faces directly onto the small garden of an adjoining house. Whilst this is also likely to result in some direct overlooking, I have not been provided with any information relating to how this relationship came about. Furthermore, it does not justify granting planning permission for the appeal proposal given the unacceptable overlooking that would occur.

12. I therefore conclude that by reason of the juxtaposition between Skittlestone House and Cottage, condition no.4 is necessary in the interests of providing adequate usable outdoor space that would be free from harmful overlooking. Removal of the condition and creation of a standalone property in the former barn would be contrary to one of the Core Planning Principles of the National Planning Policy Framework ('the Framework') which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

#### *Other Matters*

13. In reaching my conclusion against the main issue I have taken into account that the Council has not raised any concerns regarding the effect of the proposal on other neighbouring residents, or in terms of car parking provision and highway safety. Based on the evidence provided I have no reasons to disagree. Nevertheless, this lack of harm is only a neutral factor in the overall planning balance.
14. I have also considered the comments in support of the proposal which state that it would provide much needed accommodation in a village with accessible local facilities, and that examples of approved development with identical circumstances are common in the streetscene. In addition, reference has been made to a lack of a deliverable housing land and the need for affordable/starter homes in the area due to housing needs and property prices. I also note that the converted barn has its own services including water and electricity, and have taken into account comments regarding previous ownership of the site and how the Council Tax has been calculated.
15. However, no information has been provided to suggest that the Council has allowed an identical relationship to the appeal proposal elsewhere, nor have any details been submitted regarding the circumstances that were taken into account. Whilst I recognise that the former barn could provide much needed housing for local young families with no additional infrastructure required, it would nonetheless give rise to a very poor standard of living accommodation, with no private space to sit outside without being directly overlooked. As a result, whilst empathising with the appellant's position, the benefits of providing a single additional dwelling in the village do not justify granting planning permission given the significant harm that has been identified.

#### **Conclusion**

16. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Matthew Birkinshaw*

INSPECTOR