

Appeal Decision

Site visit made on 18 October 2016

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 1 December 2016

Appeal Ref: APP/B3030/W/16/3155759

Land to the South of Sherwood Forest Lodge, Main Road, Kings Clipstone, Old Clipstone, NG21 9BT

- 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 Keith Laver against the decision of Newark & Sherwood District Council.
 - The application Ref 15/02155/FUL, dated 3 December 2015, was refused by notice dated 16 February 2016.
 - The development proposed is the change of use of two existing buildings to self-catering tourist accommodation with minor external alterations and associated parking.
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Decision

1. The appeal is allowed and planning permission for the change of use of two existing buildings to self-catering tourist accommodation with minor external alterations and associated parking is granted on Land to the South of Sherwood Forest Lodge, Main Road, Kings Clipstone, Old Clipstone, NG21 9BT in accordance with the terms of the application Ref 15/02155/FUL dated 3 December 2015, subject to the conditions set out in the Annex.

Main Issue

2. In defining the reason for refusal, the Council identified specific concerns in respect of the failure to identify a local need for the proposed tourist development, as well as with regards to the suitability of the existing buildings for residential conversion.
 3. The appellant has subsequently made additional submissions as part of the appeal documentation, having made contact with *Experience Nottinghamshire* and the Council's own Economic Development Team in respect of local need. Furthermore, the appellant has submitted additional evidence in respect of the cited Tourism Policy of the Core Strategy being overly restrictive in the context of the National Planning Policy Framework (the Framework), and with an acknowledgement of emerging tourism policy.
 4. Further to the submission of this additional evidence and a recognition of the existing policy context, the Council is now satisfied on balance that the appellant has demonstrated there to be additional demand for tourist accommodation within the vicinity of the appeal site. However, the Council remains unconvinced that the buildings are suitable and of appropriate construction to support their conversion to residential accommodation.
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5. As a consequence, the main issue is therefore whether the existing buildings would be appropriate and suitable for conversion in respect of the proposed use as residential tourist accommodation.

Reasons

6. The appeal site is occupied by two existing stable buildings which are accessed via a track from Mansfield Road along the side of Sherwood Forest Lodge and the adjacent caravan site, and around the rear boundaries of the properties fronting on to Mansfield Road to a turning and parking area in close proximity to the two buildings. Each building possesses a small concrete hardstanding in front of the structure and is surrounded by land in agricultural and equestrian uses, with the eastern building also adjacent to a further field shelter. Both buildings possess some limited screening to the rear.
7. The Council has drawn my attention to Policy DM8 of the Newark & Sherwood District Council Allocations and Development Management Development Plan Document 2013 (the Site Allocations DPD). The policy indicates that *planning permission will only be granted for conversion to residential use where it can be demonstrated that the architectural or historical merit of the buildings warrants their preservation, and they can be converted without significant re-building, alteration or extension*. I note that the policy also indicates that tourist accommodation will be supported where it is necessary to meet identified tourism needs, and it constitutes rural diversification including the conversion of existing buildings. The Council has also cited Core Policy 7 of the Newark & Sherwood Core Strategy Development Plan Document 2011 (the Core Strategy) as echoing the requirement of Policy DM8 in offering support for the conversion of buildings provided they are soundly built and capable of being adapted without complete or substantial rebuilding. The Council has concluded that the proposed development would conflict with both of these Development Plan policies.
8. The appellant has provided details of the extent of works which would be required to facilitate the conversion of the buildings to allow tourist occupation. I note from the submitted plans that it is indicated that the conversion of the buildings would not require the extension of the existing floorspace or the head height of the buildings, but would entail some amendment to the internal layout. It is also indicated that the external alterations have been kept to a minimum in order to retain the integrity of the character and appearance of the building in the rural setting. These would include the replacement of a felt roof on Block B with a pantile roof to replicate the appearance of Block A, and some minor alterations to the size of the windows in Block B to allow a means of escape. On the basis of my observation of the buildings, I would not disagree with the summary of necessary works provided by the appellant, and I do not consider that the extent of such works would either be unexpected or unreasonable in the context of converting such a building. Furthermore, I do not consider that as a consequence of the extent of the proposed works and the comparatively screened position of the buildings within the wider rural landscape, that there would be an adverse effect on the broad rural character of the area.
9. Despite the apparent capability of the buildings to be converted to provide the proposed accommodation, I have had careful regard to the Council's contention that a building must be required to have either architectural or historic merit to

be eligible. In this respect I have noted that the adoption of the Site Allocations DPD, where the requirement has been most recently set out, post-dates the publication of the Framework, and I have also been mindful of the broad support offered to sustainable rural tourism at paragraph 28 of the Framework. Nevertheless, whilst it is evident that the appellant considers the Council's interpretation places too onerous a restriction on the scope of the conversion of rural buildings, the conformity of the policy and indeed the Site Allocations DPD as a whole to the Framework would have been considered at the time of the document's examination. In this respect, I do not consider that there is any justification to set aside the adopted Development Plan policy by reason of non-conformity.

10. I have therefore carefully considered the wording and reasoned justification of Policy DM8 of the Site Allocations DPD. In this respect, I do not agree with the appellant's implication that the conversion of buildings to tourist accommodation must be judged separately to the conversion of buildings for normal residential occupation. However, I note that the restriction of the conversion of existing buildings is based upon a judgement of '*locational sustainability*', where the conversion of buildings in unsustainable locations would only be supported if the architectural or historic merits of the building would outweigh their locational disadvantages. In this instance, I do not consider the appeal site to be within an unsustainable location, as whilst I accept shopping facilities are located within the next settlement, there is good access to regular bus services as well as some limited facilities locally in the form of a public house. In light of the nature of the occupation of the appeal site, I do not therefore consider that the application of criteria restricting conversions to buildings of architectural or historic merit only, would be applicable in this instance.
11. I have concluded that the buildings which would be converted are capable of conversion, and that the extent of works required to facilitate their occupation as tourist accommodation would not be unreasonable. I am also satisfied that the conversion of the buildings would not result in adverse effect on the rural character of the wider area. Furthermore, the appeal site is not within an unsustainable location, and I am therefore satisfied that in light of the identified tourism need within the area, that there would not be conflict with Policy DM8 of the Site Allocations DPD, Core Policy 7 of the Core Strategy, or paragraph 28 of the Framework.

Other Matters

12. The appeal site is located close to a Grade II listed Scheduled Ancient Monument (SAM) known as King John's Palace, which is also designated as a heritage asset of National Archaeological Importance. I am mindful that I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the setting of the listed building. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
13. The existing stable buildings are, at their closest point, approximately 80 metres to the west of the heritage asset. Whilst it is evident from the submissions that the lodge was formerly a substantial property surrounded by

a moat with a complex of buried walls and robber trenches lying beyond the existing structure, I consider that the current setting of King John's Palace is derived from its prominent location surrounded by open agricultural land. In this respect, I accept that the existing stable buildings are located within the setting of the heritage asset, but I do not consider that their conversion and occupation as tourist accommodation would be likely to be anymore injurious than the impact of the existing equestrian related use. Furthermore, I note that I am satisfied that the scale of the buildings, the distance from the heritage asset, and the existing planting and screening available on the intervening field boundaries would assist in reducing the inter-visibility with the appeal site. As a consequence, I am satisfied that the significance of the heritage asset would not therefore be diminished by the proposal as it would not additionally detract from the setting, and would not therefore conflict with the policies of the Framework which seek to conserve and enhance the historic environment.

14. In addition to the above and the main issues, interested parties have also raised concerns over a number of other matters, including the impact on living conditions, the effect on ecology, traffic congestion and highway concerns, and the setting of a precedent for similar proposals.
15. I observed the relationship between the location of the proposed development and the rear of the existing dwellings to the north. Whilst I accept that the change from equestrian use to tourist accommodation would have the potential to be evident across existing land and fields, I consider that the distances involved would mitigate against the potential for any unacceptable impact on the living conditions of nearby occupiers.
16. In respect of ecological impacts, I have had regard to the conclusion of the Nottinghamshire Wildlife Trust that the conversion of the stable buildings would be unlikely to result in any additional impact on nightjar and woodlark, subject to a condition controlling works during the bird breeding season. Furthermore, as long as a precautionary approach is taken, it is concluded that there should be no impact on bats. I have not been provided with any detailed contrary evidence on these matters, and I am therefore satisfied that the ecological impacts of the appeal site have been addressed.
17. The proposed development would utilise the same access arrangements as the existing equestrian uses on the appeal site. Whilst I observed the highway passing the access point to be relatively busy, I consider the visibility to be acceptable for the character of the highway, and the level of traffic that would be likely to be generated by the development would not result in any noticeable adverse impacts on the existing highway use or capacity. I note that the highway authority has not raised any objections to the proposals in respect of highway impacts, and I have no reason to dispute that conclusion.
18. Turning to the issue of precedent, whilst I accept that there may prove to be similar buildings elsewhere in the wider area, I am satisfied that a scheme genuinely comparable to this one would be likely to be acceptable whilst I envisage that the Council would successfully be able to resist any development which could be shown to be likely to cause demonstrable harm.
19. I have noted that representations have been made to the effect that Geraldine and David Ormans' (the occupiers of No. 2 King John's Court) rights under Articles 1 & 8 of the European Convention on Human Rights would be violated if the appeal were allowed in conjunction with a further development at No. 1

King John's Court, which is for a change of use of a bed and breakfast establishment to a home for people with complex needs, learning disabilities and challenging behaviour. However, whilst I have been provided with the local authority reference number for the planning application concerning the other development, I have no further details of the proposals before me and cannot therefore consider whether cumulatively there would be a violation of human rights in this respect.

20. However, considering the appeal proposals before me alone, I do not consider the concerns to be well-founded because for the reasons I have already set out above, there would not be the alleged impact on the peaceful enjoyment of all possessions including the home and other land set out under Article 1, or on private and family life, including the countryside, as expressed under Article 8. I am satisfied that an acceptable relationship between the proposed development and No. 2 King John's Court would be attainable and as a result, there would be no violation of Geraldine and David Ormans' human rights.

Conditions

21. Conditions relating to timeliness and the identification of plans are necessary in the interest of proper planning and the avoidance of doubt. A condition ensuring the materials to be used accord with the details submitted would be required in the interests of the character and appearance of the area. The removal of permitted development rights for the occupation of the premises for any other use within Class C3, and the imposition of a limitation on the number of days which the premises may be occupied, would be in the interests of exercising appropriate control over the nature of use of the premises. The imposition of controls over the timing of works during the bird breeding season, and the requirement for agreement over the details and design of a scheme of lighting would be in the interests of the biodiversity of the site.
22. I have had regard to the appellant's contention that given the scope of the proposed works, a condition requiring a geo-physical investigation would be unnecessary. On the basis that the proposals do not result in any increase of building footprint and are indicated to utilise existing access routes and areas for parking, I would agree that such a condition would be unreasonable in the context of the proposals.

Conclusion

23. For the reasons above, and having regard to all other matters raised, the appeal should be allowed subject to the conditions listed.

M Seaton

INSPECTOR

Annex

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 15/26/P/5a (Block Plan), 15/27/P/2a (Proposed Block A), and 15/27/P/4a (Proposed Block B).
- 3) The development hereby permitted shall be constructed in accordance with the details of the materials submitted in connection with the development hereby approved.
- 4) The premises shall be used for holiday accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 5) The properties hereby permitted for use as holiday accommodation shall not be occupied by the same person or persons for a total period exceeding 28 days in any calendar year.
- 6) No removal of hedgerows, trees or shrubs, or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority. All birds, their nests and eggs (except pest species) are protected by the Wildlife and Countryside Act 1981 (and as amended)
- 7) Before development is commenced details of the design, layout and specification of any lighting on the site shall be submitted to and approved in writing by the local planning authority. Once approved in writing any external lighting on the site shall only be kept in accordance with the approved details.