



Appeal Decision

Site visit made on 16 November 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 18th December 2017

Appeal Ref: APP/D2510/W/17/3181343

Latimer Mews, Church End, Friskney, Boston PE22 8NB

- 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 Mr and Mrs Latimer against the decision of East Lindsey District Council.
 - The application Ref S/053/02427/16, dated 22 November 2016, was refused by notice dated 1 February 2017.
 - The application sought planning permission for Change of use of existing outbuildings to form 2 no. units of holiday accommodation and provision of a parking area without complying with conditions attached to planning permission Ref S/053/01331/99, dated 14 December 2000.
 - The conditions in dispute are Nos 2 and 3 which state that: (2) No one shall occupy the holiday units the subject of the application in excess of a total of three calendar months in any year provided that and without prejudice to the foregoing once the holiday units have been occupied by a person or persons for a total of three calendar months in any year then that person or persons shall not occupy again any holiday unit on the application site until an interval of at least two months has elapsed from the date of expiry of the said three month period; (3) In respect of each holiday unit it is necessary to maintain a daily record of the names of the occupants and to make such log available for inspection by the Council on request.
 - The reasons given for the conditions are: (2) To ensure that the units are used for holiday purposes only and are not occupied as permanent residential units; (3) In order to ensure the holiday units are used for holiday purposes.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have adopted the Council's description of the appeal site as this is more precise.

Main Issue

3. The main issue is whether the conditions attached to the existing planning permission, Ref S/053/01331/99, are reasonable and necessary to ensure that the units are used for holiday purposes only and are not occupied as permanent residential units.

Reasons

4. The appeal site comprises a pair of holiday units which were formerly a single outbuilding within the curtilage of The Anchor Inn (the Anchor), which is the neighbouring public house. In 2000 planning permission was given for the change of use of the outbuilding to provide two holiday accommodation units. The site is to the west of The Avenue, which at that point runs approximately north to south.
5. The proposal seeks the removal of two conditions that limit the use of the two units as holiday accommodation and requiring records of holiday lettings to be kept. The units would then be able to be let as residential accommodation.
6. The northern rear elevation of the building containing the holiday units is a largely blank wall, though a small extension has been added to the rear of the westernmost unit. Entrance to the units and the majority of the windows are on the southern elevation facing the Anchor, approximately ten metres further south.
7. There is a small brick-paved area to the front of the building and a slightly larger area to the rear that appears to be used for vehicle parking, though whether for both of the holiday units or just one of them is unclear. There is also an additional section of land to the west of the building. It is proposed that a portion of the land to the rear of the building would be used as amenity land for the eastern unit and the remainder, together with the land to the west, would be used as amenity land for the western unit.
8. Between the edge of the brick-paved area and the northern side elevation of the Anchor is a shared access for the appeal site and the latter's car park, which also serves as an external access to the Anchor's beer garden.
9. The narrow gap between the appeal site and the Anchor will inevitably result in noise and disturbance from vehicles using the joint access and the Anchor's customers arriving and leaving. The nature of a public house means that such movement of people and vehicles is likely to continue until late at night up to seven days per week.
10. In addition to the noise and disturbance from the movement of people and cars, there is also noise associated with normal activity within the Anchor and the beer garden to the rear. While the latter activity is more likely to occur in the warmer months, it was evident from my site visit that the Anchor hosts late night entertainment in the form of amplified music at least on Fridays and Saturdays.
11. Temporary occupation of the units as holiday accommodation would limit the exposure to any disturbance to an acceptable level. However, for permanent residential accommodation the cumulative effect of vehicle and people movement, the use of the beer garden and the noise generally associated with the operation of licensed premises would have an unacceptably detrimental effect on the living conditions of future occupiers of the appeal site.
12. The appellants have suggested that an acoustic fence could be erected to absorb noise or deflect it away from the appeal site. However, such a solution would require the erection of a high, solid barrier two-to-three metres or so from the southern elevation which holds the only existing entrances to the building and the overwhelming majority of the windows.

13. The erection of an acoustic fence would be an overbearing addition to the curtilage of the appeal site and would have an unacceptable detrimental effect on the outlook and sense of enclosure for future occupiers of the appeal site. The proposal for the fence is an unacceptable solution to the issue of noise and disturbance at the appeal site.
14. Therefore, I conclude that the conditions attached to the existing planning permission, Ref S/053/01331/99, are reasonable and necessary to ensure that the units are used for holiday purposes only and are not occupied as permanent residential units. Removal of the conditions would conflict with Policies A4 and H12 of the East Lindsey Local Plan 1999, which, amongst other things, seek to ensure that developments provide adequate levels of amenity for future occupiers.

Other Matters

15. A twelve-month temporary planning permission was granted in 2004 for the use of a holiday cottage on the appeal site for residential accommodation. It is unclear whether that permission was for the use of both units or only one of them. There is no evidence before me to show that there were issues with living conditions arising as a result of the temporary change of use.
16. However, there is also no evidence before me that the appeal site was used for residential accommodation or how the Anchor operated at that time. In any event, I must consider the appeal on its merits on the information available to me, including evidence of the existing use of the Anchor, which I consider would have a detrimental effect on the living conditions of future occupiers of the appeal site.

Conclusion

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

D Guiver

INSPECTOR