



Appeal Decision

Site visit made on 13 August 2019 by L Wilson BA (Hons) MA

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2019

Appeal Ref: APP/E2734/W/19/3229789

Galphay Inn, Holly Tree Farm To Nap Cote Lane, Galphay, HG4 3NJ

- 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 Alexander Brimelow against the decision of Harrogate Borough Council.
 - The application Ref 18/04211/FUL, dated 10 October 2018, was refused by notice dated 16 May 2019.
 - The development proposed is the erection of 1 dwelling and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 dwelling and associated works at Galphay Inn, Holly Tree Farm To Nap Cote Lane, Galphay, HG4 3NJ in accordance with the terms of the application, Ref 18/04211/FUL, dated 10 October 2018, and the plans submitted with it, subject to the attached schedule of conditions.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. A revised description of the proposed development was agreed between the appeal parties. This is used in the formal Decision above.

Main Issue

4. The application site is located within the Nidderdale Area of Outstanding Natural Beauty (AONB). The Council do not consider the proposal would cause harm to the landscape character of the AONB and I have no reason to disagree. The main issue is whether the proposed development would provide acceptable living conditions for future occupants, regarding the provision of private amenity space and noise and disturbance.

Reasons for the Recommendation

5. The application site comprises land associated with the Galphay Inn. There are residential properties to the front and rear of the site which vary in character. In order to utilise the application site, the existing embankment would be removed. The appellant states the proposal would result in 100 sqm of private

amenity space and the Council have not disputed this figure. The proposed private amenity space would be similar to the floorspace of the dwelling. Thus, the dwelling would not be overly large in relation to the plot size as it would provide sufficient useable private amenity space.

6. From the evidence submitted, it appears The Galphay Inn is not a destination pub. It is small in scale and located within a rural area where there is limited passing trade as it is not located on a main road. The car park provides limited parking which reflects the size of the public house. The comings and goings would not be particularly frequent given its scale. There are no windows proposed on the side elevation facing the public house and the proposed boundary treatment would ensure the rear garden would feel private. Furthermore, any future occupiers would be aware of the proximity to it.
7. Given the proximity to the public house, future occupiers could be impacted by noise from activities associated with it. Environmental Health were consulted and did not object to the proposal. They considered conditions could minimise the impact upon the future occupants in relation to noise.
8. Planning Practice Guidance states, when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects¹. Insufficient evidence has been submitted to demonstrate the conditions recommended by Environmental Health cannot adequately address the noise concerns to make the proposal acceptable.
9. Accordingly, subject to conditions which I will come to later, the proposal would be acceptable in terms of its impact upon the living conditions for future occupants, with regard to the provision of private amenity space and noise and disturbance. As such, the proposal does not conflict with the Framework, Policy HD20 of the Harrogate District Local Plan Saved Policy Version (2007) and Policy SG4 of the Harrogate District Local Development Framework Core Strategy (2009).

Other Considerations

10. Interested parties are concerned about future viability of the public house. A decision notice has been submitted by interested parties, but it is dated 28 July 1987 and relates to a rear extension and carrying out alterations to form a coffee lounge. Planning policy has altered significantly since this application was refused and a coffee lounge would result in more vehicles than a dwelling. The viability of the public house would not be negatively impacted by the proposal given the nature and scale of the scheme. In addition, the design of the dwelling would be appropriate as it would be traditional. Furthermore, the Highway Authority considered the proposal to be acceptable and the evidence presented does not suggest the kind of development proposed would increase the risk to highway users.
11. There is some concern as to whether the the proposed dwelling would be used as a holiday let. However, the proposal before me is for the erection of 1 dwelling and associated works.

¹ Paragraph: 001 Reference ID: 21a-001-20140306

Conditions

12. Several conditions have been suggested by the Council. These have been assessed in light of guidance found in the Planning Practice Guidance and where necessary the wording has been amended for clarity. Conditions 1 and 2 are necessary for certainty. In the interest of visual amenity, conditions relating to materials and a landscaping scheme are necessary. Conditions 4 and 5 are required to protect residential amenity and are reasonable. Pre-commencement conditions have been agreed with the appellant to secure the investigation, and where necessary, mitigation of any sources of contamination. These conditions are required to adequately address the potential for the pollution of land. A condition facilitating a charging point for electric vehicles would be reasonable in order to reduce the impact of vehicular emissions in line with the Framework. I have amended suggested conditions 15 and 16 so it is precise and reasonable in the interest of highway safety.
13. The design of the proposed dwelling is considered acceptable and a condition requiring reveals is unnecessary. Condition 2 would ensure that the 1m and 1.2m walls to the front would be constructed of course stone and the bathroom and ensuite windows would be obscure glazing due to the annotated site plan. The site plan also shows the location of the new retaining walls. The drawings provide adequate detail and therefore conditions relating to the stone walls, obscure glazing and details of the new retaining wall are not necessary.
14. A condition removing permitted development rights is also unnecessary. Given the size of the plot, it would be unreasonable to attach such a condition and, in any event, permitted development rights are restricted in the AONB. The scale of development would not warrant stipulations controlling deposit of mud, grit and dirt on the highway, parking for staff and sub-contractors and details of materials storage area are not necessary.
15. Condition 19 suggested by the council would not be reasonable and it would be difficult to enforce. The site plan shows the location of the parking spaces and pedestrian path, condition 2 is therefore considered sufficient in this regard.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be allowed subject to the conditions in the attached schedule.

A U Ghafoor

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GI_PL_001 Rev D, GI_PL_003 Rev D, GI_PL_004 Rev C, GI_PL_005 Rev C, GI_PL_06 Rev B and GI_PL_007 Rev A.
- 3) No development above slab level shall take place until a sample panel of the materials to be used in the construction of the external surfaces have been prepared on site for inspection and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) The development hereby permitted shall not be occupied until a scheme for a continuous acoustic barrier constructed along the boundary between the residential garden area and the adjacent licensed premises, of a minimum height of 2 metres shall be submitted to, and approved in writing by, the local planning authority. All works which form part of the approved scheme shall be completed before first residential occupation. The barrier shall be retained throughout the life of the development.
- 5) The development hereby permitted shall not be occupied until a scheme for the acoustic treatment of the proposed residential premises shall be submitted to and approved in writing by the local planning authority. Such a scheme to demonstrate that the following internal noise levels will be met:
 - Living Room - LAeq (16 hr), 07.00-23.00, 35db
 - Bedrooms - LAeq (16 hr), 07.00-23.00, 35db
 - Bedrooms - LAeq (8 hr), 23.00-07.00, 30dB
 - Bedrooms - LA10(15 min), 23.00-07.00, 45dB
 - Bedrooms - Lamax, 23.00-07.00, 55dB

All works which form part of the approved scheme shall be completed before first residential occupation and shall be retained throughout the life of the development.

- 6) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i. a survey of the extent, scale and nature of contamination;
 - ii. the potential risks to:
 - human health;

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 7) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 9) No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority within 10 days of the report being completed and approved in writing within 10 days of receipt. If any of these reports identifies any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority within a further 10 days and approved in writing within 10 days of receipt. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.
- 10) Prior to the occupation of the dwelling hereby approved, the infrastructure for electric vehicle charging points shall be installed to allow future installation of electric car charging points. The charging point installed shall be retained thereafter. Full details shall be provided to the local planning authority to confirm the provision and position of the electric vehicle charging point prior to occupation of the dwelling.

- 11) Prior to the occupation of the dwelling hereby approved, the proposed on-site parking area shall be laid out in accordance with the approved plans, surfaced in a bound material and drained within the site. The parking area, surfacing and drainage shall thereafter be retained as such in perpetuity.
- 12) Notwithstanding any details shown on the approved plans, before the development is first occupied, a landscaping scheme for the site shall be submitted to and approved in writing by the local planning authority.
- 13) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.