
Appeal Decision

Site visit made on 19 May 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2020

Appeal Ref: APP/G2713/W/20/3245107

Oakleigh, Oakleigh Cottage, Alne Station to Lund Bridge, Alne Station YO61 1TS

- 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 & Mrs L Butterworth against the decision of Hambleton District Council.
 - The application Ref 19/01347/FUL, dated 19 June 2019, was refused by notice dated 18 October 2019.
 - The development proposed is use of existing tourism accommodation as unrestricted dwellinghouse.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I note the reference to the curtilage plan dated 15 October 2019. I have had regard to the details of this plan in coming to my decision.

Main Issues

3. The main issues are:
 - Whether the development is a suitable location for a dwelling house having regard to national and local planning policies and proximity to services and facilities, and;
 - The effect of the development on the future occupiers of the property regarding the proximity of the appeal site to the East Coast Main Railway Line with particular reference to noise and vibration.

Reasons

Location

4. The appeal site is a detached building within the grounds of Oakleigh House. The building operates as a three bedroomed holiday cottage. It is located on Station Road between Alne and Easingwold adjacent to the East Coast Main Railway Line.
5. The appeal site is outside the settlement limits for Alne. Therefore, it is in the countryside for the purposes of the Hambleton Local Development Framework Core Strategy (CS). Policy CP4 of the CS seeks to direct new development to

within the development limits of existing settlements, with development only being supported outside of these areas when an exceptional case can be made. This includes where development is necessary to meet the needs of certain enterprises, including tourism, with an essential requirement to locate in the countryside or it would re-use existing buildings or would support a sustainable rural economy or local identified need for affordable housing.

6. Policy CP1 provides a set of requirements against which all proposals will be assessed to promote the protection of the natural and built environment and Policy CP2 seeks to minimise the need to travel in general and, in particular, reduce the need to travel by private car.
7. These policies are broadly consistent with the National Planning Policy Framework (the Framework). The Framework supports housing in rural areas that is responsive to local circumstances and reflects local needs. It promotes sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities. In addition, the Framework states that isolated homes should be avoided in the countryside unless, among other things, development would re-use redundant or disused buildings and enhance its immediate setting or the development would involve the subdivision of an existing residential dwelling.
8. Further, the Framework supports a prosperous rural economy through the sustainable growth and expansion of all types of business in rural areas including sustainable rural tourism. The Framework acknowledges that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport.
9. I saw at my site visit that there is a significant cluster of development, part of Alne Station on the opposite side of the railway line to the appeal site. From this development cluster I saw that there is a footpath along the road into Alne and although the walk is some distance the design and construction of the footpath would be sufficient to allow reasonable access to the limited services and facilities within Alne.
10. The appeal site is a further 300 metres beyond the footpath accessed via a road bridge over the railway. I observed at my site visit that the road is lightly trafficked and that in principle it may be possible to reach the village on foot or by bicycle. However, the limitations of the initial section of the road, including the absence of a footpath would, I consider, serve to discourage future occupants from walking or cycling, particularly after dark. Therefore, given the distances involved and the limitations of the immediate rural road it is likely that most of the trips to access work, schools and leisure facilities would be by car.
11. Therefore, future occupiers would be heavily reliant on private car journeys. The proposal would not encourage sustainable forms of transport and the need to travel would not be minimised in this location. Nor would a single dwelling proposed make a notable contribution to sustainable development in rural areas through supporting local services in a village nearby, as promoted by the Framework. The development would not reuse an existing redundant building. In addition, recent case law indicates that the subdivision of a dwelling in the

context of Paragraph 79(d) focuses on the subdivision of the main dwelling not the residential site¹.

12. I appreciate that the current holiday let accommodation generates its own vehicle movements. There is no obvious alternative to the car for accessing the holiday accommodation and it is likely that all such traffic would be by car. Similarly trips to local attractions would likely be by car. However, the Framework supports business uses that are not well served by public transport and even with modest occupancy the site could contribute to the rural economy.
13. The appellant considers that the lack of reliable WiFi to the property and the location of the East Coast Main Line are local circumstances that the proposed unfettered use of the appeal site as a dwelling would overcome. However, the availability of suitable WiFi and the location of the property in relation to the railway line would be of no less importance to an unrestricted residential use.
14. The appellant indicates that the holiday let use is not viable and various documents have been provided that indicate that between 2016 and 2018 the uptake of the accommodation has only been at a good level for one of the three years. The accommodation has largely been marketed with English Country Cottages and Cottages.com. There is no indication that wider marketing to support the holiday let has been undertaken. The accountants letter indicates that the holiday let has not made any profit and is therefore not a valuable holiday let. However, given the limited time that the property has been available as a holiday let and the lack of evidence of the efforts made to market the accommodation beyond the two holiday companies, I attach only limited weight to this conclusion noting that the accountant has not indicated that the business is not viable.
15. Paragraph 8 and 11 of the Framework promote sustainable development and refer to economic, social and environmental objectives. The provision of an additional unfettered dwelling would be a social benefit, but the weight to be attached to this is limited given that the site is not optimally located for a dwelling. As I have discussed, in relation to environmental objectives it is likely that occupiers of the dwelling would be highly dependent on the use of private vehicles. In respect of economic considerations, the limited information submitted does not lead me to conclude that the property is not viable as a holiday let and could not make a contribution to the local economy.
16. I appreciate that without the planning condition restricting the use of the building it could be occupied as a residential dwelling. However, the building is restricted to tourist use and I have considered the appeal on that basis.
17. Taking these matters together, I conclude that the use of the existing tourist accommodation as a dwelling would not provide a suitable location for a dwelling house having regard to national and local planning policies and proximity to services and facilities. The proposal would be contrary to Policies CP1, CP2 and CP4 of the CS and the Framework.
18. My attention is also drawn to the Council's Interim Planning Guidance (IPG) adopted in April 2015 to supplement the Local Development Framework (LDF) policies and align the development plan with the Framework. The IPG relates to

¹ Wiltshire Council v SSHCLG [2020] EWHC 954 (Admin)

small scale housing development in villages and is of limited relevance to the consideration of the proposal.

Proximity to the East Coast Main Railway Line

19. Policy DP1 of the Hambleton Local Development Framework Development Policies adopted February 2008 (DP) seeks to protect the occupants of properties including adequate protection from noise and disturbance. This accords with the CS principles in CP1 which seek to protect and enhance the health, economic and social well-being, amenity and safety of the population. The Framework similarly seeks to ensure that the location of development avoids giving rise to significant adverse impacts on health and the quality of life.
20. The appellant states that the boundary of the site is approximately 36 metres from the boundary with the East Coast Main Line Railway. During my site visit I observed a number of trains passing the site while standing on the small patio to the rear of the building. Trains are traveling at high speed and for the brief period of the train passing the site the noise level is substantial in an otherwise tranquil area with apparently low background noise levels.
21. The appellant's vibration assessment² concludes that the vibration levels would be unlikely to cause adverse comment and there would be low risk of structural damage. I have no reason to question the findings of the vibration report.
22. The appellants noise impact assessment (NIA)³ concludes that given the comparatively small exceedance of noise criteria in BS8233:2014 that occurs on a regular basis it would not be unreasonable for the dwelling to be used permanently. The report suggests a number of mitigation measures which could be incorporated if strict compliance with the internal noise standards set out in BS 8233:2014 is required. The mitigation measures proposed would consist of replacing the existing glazing units with glazing of a higher acoustic performance rating. The noise report also indicates that there is potential for changes to the internal arrangement of the bedrooms. Externally the noise standard in BS 8233:2014 are met and no further mitigation is considered necessary.
23. In contrast to tourist occupation of the building, the effect of the use of the appeal site as a permanent dwelling would be to provide a residential environment that would be the main residence of its occupiers with constant exposure to any noise and disturbance. Having regard to the NIA I am satisfied that in order to adequately protect future occupants of the property noise mitigation measures would be required.
24. The Council officer's report indicates that mitigation measures should include improved glazing and other improvements to the fabric of the building, mechanical ventilation and identification of the location of external amenity space away from the railway side of the building.
25. It appears to me that there is adequate outside space within the curtilage of the building to provide a location for amenity space away from the railway line. This matter could be addressed by condition. Nevertheless, I would agree with the Council that occupiers of the building should be protected adequately from

² Dragonfly consulting Ground-Borne Vibration Assessment September 2019

³ Dragonfly consulting Noise Impact Assessment September 2019

the noise within the bedrooms and a higher level of mitigation than identified within the appellants acoustic assessment, based on the evidence before me, is likely to be required.

26. I note the appellant's final comments in which it is stated that the Council's proposed condition to seek appropriate mitigation is not considered necessary and reasonable given the findings of their NIA. Therefore, I cannot be sure that an agreed technical solution to resolve the noise concerns can be secured and it would not be appropriate for me to seek a detailed design by condition. Accordingly, the effect of the development on the future occupiers of the property regarding the proximity of the appeal site to the East Coast Main Railway Line with particular reference to noise would conflict with Policy DP1 of the DP and Policy CP1 of the CS and the Framework.

Other Matters

27. I saw during my site visit the location of the scheme for 5 houses referred to by the appellant and its proximity to the railway line. However, I have not been provided with the details of the internal layout of the dwellings or the noise assessment that supported that application. I can not therefore draw comparisons between the appeal site and that development proposals. In any event each site requires its own assessment of the noise environment and a design solution appropriate to the proposed site layout.

Conclusion

28. For the reasons given above, the appeal is dismissed.

Diane Cragg

INSPECTOR