



Appeal Decision

Site visit made on 29 September 2020

by M Scriven BA (Hons) MSc CMgr MCIHT MCMI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2020

Appeal Ref: APP/F0114/W/20/3251397

Selwood Manor, 396 Bath Road, Saltford BS31 3DQ

- 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 Mrs Claire Selwood against the decision of Bath & North East Somerset Council.
 - The application Ref 20/00214/FUL, dated 19 January 2020, was refused by notice dated 9 April 2020.
 - The development proposed is a change of use from C3 dwellinghouse to mixed use C3 dwellinghouse and commercial leisure accommodation (commercial holiday let).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed change of use on the living conditions of neighbours, with particular regard to noise.

Reasons

3. The appeal property is a large detached house, set back from the road, centrally positioned in the plot. The nearest neighbouring dwellings at No 394 and No 398 sit close to the property boundary of the appeal site. Although the busy Bath Road runs through Saltford, the sound of traffic appears to be at a steady level in the background.
4. The proposed change of use would provide commercial holiday letting accommodation for large groups of up to 16 guests. The property has previously been leased as proposed, largely on weekends, to differing groups, including hen parties and families, seeking to celebrate special occasions, and short breaks. Although welcomed on arrival by the appellant it would not appear that any physical presence is maintained by the owners on-site during the guests' stay.
5. The large rear garden, expansive patio, associated hot tub and sauna are likely to be focal points of activity throughout the year, not just the summer months. The patio area runs much of the width of the rear of the property, the seating area is closest to the boundary of No 394. No 398 is somewhat separated by virtue of the driveway arrangement but is still close by. Neighbours to the rear are more separated from the appeal property by virtue of their rear gardens, albeit still in relatively close proximity.
6. Noise from group use of the patio area, hot tub and to a lesser degree the sauna would be expected because guests are away on a break for the purpose

of celebration and socialising. I have no reason to consider that this wouldn't include music and shouting for prolonged periods in to the night. Whilst this could occur from any private residential property it would be unlikely that this would occur as regularly as with a commercial let. The evidence received supports that this has occurred in the past. Such noise would significantly harm the living conditions of neighbours, particularly in the summer months if windows are open at night, when occupants would be trying to sleep

7. The noise impact assessment (NIA) provided by the appellant, identifies any excessive noise is likely to be from outdoor rather than indoor use, this does not appear to be in dispute. A 2m close-boarded fence along the boundary with No 394 is proposed to mitigate outside noise, however this is unlikely to be of benefit to the neighbours above ground floor level. The modelling is based on 8 people talking at one time with raised voices and acknowledges that it does not account for people shouting or rowdy behaviour.
8. The NIA includes measures and house rules to discourage excessive noise, which the appellant considers to be acceptable for inclusion as planning conditions. Measures include a curfew on the use of outside areas of the property beyond 10pm, an unquantified noise complaint holding deposit and no use of external sound systems. However, even if there were to be contractual agreement to these rules between the appellant and those making the booking, it is in my view unlikely to prevent harmful noise disturbance from others within the group.
9. Likewise, that the use of external sound systems would not be permitted does not in my view mitigate concerns regarding noise, as technology is such that streaming of music to wireless devices is entirely possible, with minimal effort.
10. The property is marketed for celebrations, as such it is reasonable to assume behaviour could ensue which would not be readily prevented by the appellant. Other measures proposed in the NIA to discourage excessive noise, including CCTV and signage, can only be deterrents, they cannot prevent it.
11. I have considered whether the proposed planning conditions restricting the use of the external areas would be appropriate. However, this would unlikely suffice as compliance depends on all members of the group. It would be beyond the control of the appellant who stays at the property and how they behave. I note the appellant intends to stay at the property during the week, with lettings occurring on weekends, although this would limit occupation it is unlikely that this would result in reduced incidence of noise or any less harm given it appears that the property has mainly been leased on weekends previously.
12. Further conditions proposed include the appellant being readily contactable in the event of a complaint, it is unclear what action they may take to resolve issues and once disturbance has occurred it is too late for those disturbed. The appellant also proposes that local charities could benefit from the noise deposit being donated following any proven complaints of noise, however this would be unlikely to offset the harm felt by those that have endured it. Such conditions would not prevent the identified harm occurring, likewise they would be largely unenforceable.
13. In the event of the proposal not being considered acceptable as a permanent arrangement, the appellant has proposed a temporary permission to test the proposal's acceptability. I am of the view that given the property has been

used for some time for such letting, its effect in planning terms has had sufficient time to be considered by the Council. It is also unclear how any temporary permission trial would be monitored or subsequently appraised, including any resource required from the Council. Therefore, I see no reason why a temporary permission is necessary or appropriate.

14. I am aware of enforcement investigation having been undertaken by environmental health officers at the property, albeit the Council have stated no subsequent action has been taken. Similarly, although there have been numerous objections to the proposal from nearby residents, I do note representation received stating that noise had not been an issue. However, there does not need to have been a statutory nuisance arising under environmental protection legislation for noise to be unacceptable in planning terms.
15. Therefore, the proposed development would not accord with Policy D6 of the Bath and North East Somerset Local Plan 2011-2029 Placemaking Plan, 2017 (LP), which seeks to ensure that, amongst other things, development proposals do not create harm to amenity in terms of noise.
16. The appellant contends that Policy RE7 of the LP, should carry weight in the appeal. However, the policy is within the 'Sustaining a Buoyant Rural Economy' section of the LP and, notwithstanding a reference to Bath, relates to encouraging rural enterprises rather than that before me, for which I have no evidence of it being a rural enterprise.
17. The proposal would also not accord with the National Planning Policy Framework, 2019, when read as a whole.
18. I acknowledge from the letters of support received that the business would continue to support the local economy. However, this economic benefit does not in my view outweigh the harm to living conditions of neighbours associated with the proposal. That the proposal would not reduce available housing stock to a harmful degree or be unacceptable in transport terms is no more than a neutral consideration in the appeal. As such the proposal would not constitute sustainable development.

Conclusion

19. Therefore, for the reasons above, the appeal is dismissed.

M Scriven

INSPECTOR