



Appeal Decision

Site Visit made on 6 July 2021

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2021

Appeal Ref: APP/D1835/W/21/3273021

Pitmaston House, Malvern Road, Worcester WR2 4LL

- 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 J Jenner of Blockworks against the decision of Worcester City Council.
 - The application Ref 19/00860/FUL, dated 12 November 2019, was refused by notice dated 22 October 2020.
 - The development is a change of use from residential dwelling to mixed use residential dwelling and holiday accommodation let.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr J Jenner of Blockworks against Worcester City Council. This application is the subject of a separate Decision.

Preliminary matter

3. Although it was stated on the application form that the development has not yet started, the appellant's appeal statement says that the use of the site for holiday accommodation started in 2017 and there were holiday guests present on the day of my site visit. The appeal is therefore considered on a retrospective basis.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring properties in respect of noise and disturbance.

Reasons

5. Pitmaston House is a large building located in a generally residential part of Worcester. To its immediate south is Pitmaston Park and to its north and rear is Pitmaston Primary School. Its front is set well back from Malvern Road.
6. The building is split between the dwelling and holiday accommodation, which comprises the southern part of the building, and six self-contained apartments and some offices, which are in the northern part. The appellant suggests that the southern part of the building is used as a dwelling and as holiday accommodation at roughly a 70/30 split respectively, with the holiday accommodation mainly being at weekends.

7. The appeal site includes seven double bedrooms, bathrooms, and a large kitchen/dining room. There does not appear to be concerns that noise generated from within the house causes disturbance to neighbours. There is however a rear garden which contains a large open sided shelter. This houses a seating area with fire pit, dining table, BBQ, pizza oven, sink, television, gym equipment, a pool table and a table tennis table. Next to this structure there is a large hot tub and a trampoline. These facilities allow for outdoor entertaining in all weathers.
8. Clearly the outdoor facilities are equally able to be used by the permanent residents of the house as well as the holiday visitors. But it is not unreasonable to consider that, when presented with such a range of outdoor activities that are not normally seen in back gardens and when visitors are only staying for a limited time, it is the holiday guests that are more likely to make full use of them than the permanent residents. Similarly it is more likely that when these facilities are used late at night, that is by guests on holiday not permanent residents. Furthermore the number of people using the property as a holiday let, with seven double bedrooms, is likely to be far greater than when in use as a single family dwellinghouse. As such the use of the site, particularly the outdoor areas, by guests will be materially different than when used by the permanent residents.
9. Usually in assessing development, an assessment has to be made as to the likely impact of a proposal. In this case the impact of the development is already manifest in the complaints that have been received by the Council's Regulatory Services department, and their Planning Enforcement Officer since 2017. Complaints, and objections to the application, are generally from the houses in Winchester Avenue to the north of the adjacent school. Although these houses seem to be some distance from the site, I viewed the appeal site from a rear bedroom window at No. 13 and from here a direct and reasonably close view of the rear garden of the appeal site was possible. Similar views are no doubt possible from other neighbouring houses.
10. Whilst it is not certain that the noises that have generated the complaints originated from Pitmaston House, the number of complaints, their nature, their regularity and their persistence over a prolonged period of time would strongly suggest that they mostly come from the same source and that that source is the appeal site, even if a few could have been attributed to other nearby houses, Pitmaston Park or just people on the street.
11. Regulatory Services have not objected to the principle of the development and have suggested it is for the landlord to control the noise. However clearly, despite the appellant's claim that he does not wish to create nuisance, noise has not been controlled over the past few years. A Noise Complaints Policy has been provided which details steps the appellant will take to prevent unacceptable noise, such as displaying signs requesting guests are mindful of local residents and that if complaints are received, possibly via a phone number given to local residents, guests will be advised to reduce noise or risk being ejected and having their deposits withheld. However, in my view such reactive sanctions would not necessarily prevent the noise occurring in the first place. Indeed, with each new set of guests the same complaints process would have to be repeated and there would be limited long term consequences for the perpetrators. Banning single sex group bookings could not be readily enforced

and though references are made to a noise monitoring system, no details are provided and I saw no evidence of such a system at my visit.

12. The planning officer's report suggested a temporary permission may be appropriate as this would allow for the appellant's Noise Complaints Policy to be monitored. However, as noted above, I do not consider the policy provided, or any subsequent management plan, would be likely to satisfactorily control noise, and so I have no reason to consider that granting a permission for two years would serve any useful purpose in planning terms.
13. I acknowledge the development supports the city's range of tourist accommodation, but this is a limited benefit. The appellant suggests that income from the holiday letting helps to support the maintenance of the building which is Grade II listed, but there is no evidence to demonstrate the development is necessary for the upkeep of the listed building or that the use of the other half of the building for rented apartments does not provide funds for this.
14. In summary, the development impacts unacceptably on the living conditions of nearby residents in respect of causing noise and disturbance. The development therefore fails to accord with policy SWDP 21 of the South Worcestershire Development Plan which aims to ensure development integrates with its surroundings in terms of its function.

Conclusion

15. The development conflicts with the development plan taken as a whole and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

A Owen

INSPECTOR