



Appeal Decision

Site visit made on 25 January 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday 15 February 2022

Appeal Ref: APP/L3245/W/21/3281669

Paddock Lodge, Kinnerley Rd, Kinnerley, Oswestry, Shropshire SY10 8DB

- 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 Mark Sheppard against the decision of Shropshire Council.
 - The application Ref 20/04370/FUL, dated 15 October 2020, was refused by notice dated 21 May 2021.
 - The development proposed is for the erection of new holiday chalets and use of existing building / timber building as holiday lets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Plot 9 was removed from the planning application ref: 20/04370/FUL during the application process, and it was on this basis that the application was considered and subsequently refused. Therefore, plot 9 does not form part of this appeal.
3. The appeal relates to the expansion of an existing tourism enterprise by the construction of 4 additional one-bedroom holiday lodges (units 7, 10, 11 & 12), and the regularisation of 2 already built holiday lodges (units 6 & 8).

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupants of nearby residential properties with regard to noise and disturbance.

Reasons

5. The appeal site comprises the curtilage of Paddock Lodge and the former paddock now occupied by 4 existing holiday lets, which were granted planning permission on appeal in 2013¹. The existing holiday lets are located along the north-eastern boundary of the site with their rear elevation backing onto Kinnerley Road.
6. The site is located in open countryside and the surrounding area is rural. The nearest residential dwellings to the appeal site are Heathwaern and Ivy Cottage, which are located immediately adjacent to the appeal site's south-western boundary.

¹ Appeal ref APP/L3245/A/13/2193029

7. From the information before me, it is evident that the site has a history of noise and disturbance from activities relating to the existing approved holiday lodges on site and the existing plots 6 & 8 (that are subject to this appeal). The Planning Policy Guidance and Noise Policy Statement for England recommends that developments which are likely to exceed the Significant Observed Adverse Effect Level (SOAEL) should be avoided. The current noise levels on site have been found to be above the SOAEL. I am therefore mindful of the cumulative impact that the proposal could have on the living conditions of the neighbouring occupiers, exacerbating the existing harm.
8. The proposed development of holiday units on plots 10 and 11 would be located within 18m of Heathwaen. This is significantly closer than the existing holiday lodges, which are located around 59m from Heathwaen. The proposed plot 8 is within 46m of Ivy Cottage, this would be in addition to an existing holiday lodge that is located around 31m from the dwelling. The increased concentration of holiday units in close proximity to the neighbouring dwellings will increase the likelihood of residents being disturbed by noise and disturbance generated by holiday visitors.
9. In particular, plot 8 has a raised deck area with hot tub and outside seating that is close to the boundary with Ivy Cottage. Plots 10 & 11 also have an outside deck area; these would be in close proximity to Heathwaen. Users would therefore be encouraged to sit outdoors generating an increased level of noise disturbance to the occupiers of the dwellings adjacent to the appeal site. In addition, plot 8 looks out towards Ivy Cottage. This means that noise will be directed towards the dwelling with no acoustic screening in between. It is acknowledged that there is boundary planting that separates the appeal site and the neighbouring dwellings. However, the trees and vegetation will not have a significant impact in terms of acoustic protection for the neighbouring occupiers. As the proposed plots are in an elevated position to the neighbouring properties, the impact of noise disturbance will be significant on these neighbouring occupiers.
10. The proposed holiday units would attract additional visitors to the site. As a consequence, this would generate greater potential for comings and goings throughout the day and, potentially, at anti-social hours. In addition, there would be a greater number of people using the open landscaped area and children's play area, particularly on fine weather days. This would lead to an increase in visitor's conversing, including children screaming and shouting, in close proximity to the neighbouring dwellings. The proposal would therefore create a greater number of noise sources because of the additional people that would be staying on the site. This would lead to increased disturbance to the occupiers of the neighbouring dwellings.
11. I note the appellant claims that the distance between the proposed holiday units and the existing dwellings would be sufficient and similar to that commonly seen between neighbouring habitable buildings. However, as the site is located in a very quiet rural area the introduction of new noise sources is likely to have a detrimental impact. This is because of the high level of sensitivity to any additional noises in what is ordinarily a peaceful location. Holiday units would be accommodated by tourists, and therefore noise levels would likely be beyond that of normal residential noise.

12. Plot 6 is an ancillary outbuilding that has already been constructed. Due to its separation distance on site from the neighbouring properties, it is not considered that the building would generate noise disturbance that is likely to be significant. However, the overall cumulative effect of the proposal would lead to a greater number of visitors on site, which would generate additional noise disturbances in other areas on site, such as the open landscaped areas and children's play area.
13. I note the appellant claims that the transient nature of holiday makers means that it will not be the same group of people staying for any length of time, therefore making it easier to enforce any noise disturbance rules. However, the transient nature of holiday visitors is likely to lead to different patterns of behaviour and less responsibility for their actions compared to a permanent resident. This would make it challenging for a site manager to control.
14. The appellant sets out their noise management plan as a means to control disturbance at the site. Even if the owner employed someone to manage the site, I am not sufficiently convinced that they could successfully prevent the noise and disturbance from causing harm to the living conditions of local residents. This is because the noise management plan does not include all of the Public Health recommendations, as noted in their objection. The appellant has suggested the use of a planning condition to ensure a satisfactory site management plan. However, even if the noise management plan did include the Public Health recommendations, it could not be considered as reasonable or enforceable to meet the requirements of the Framework (para 56), as it would be difficult to enforce the closure of windows, particularly during fine/hot weather days. If the visitors did not comply and kept their windows open, then noise would escape from the proposed holiday lets. Due to the proximity of the neighbour's dwellings, there is a risk that the noise could escape beyond the site boundary. It would also be unreasonable to prevent the future occupiers of the holiday units opening their windows on fine/hot weather days. In addition, it would also be difficult to control the noise levels of visitor voices around the children's play area and the open landscaped area. Larger groups of visitors are likely to congregate in these areas, which could be at anti-social times.
15. Therefore, for the reasons given, the proposal would result in unacceptable harm to the living conditions of the occupants of nearby residential properties with regard to noise and disturbance. Thus, the proposal would fail to accord with Policy CS6 of the Shropshire Council's Core Strategy (2011) (the CS), which requires development to protect the amenity of neighbouring dwellings. The proposal also fails to accord with Policy CS16 of the CS, which requires consideration to be given to the cumulative impact of visitor accommodation on over intensification of the site.
16. In addition, the proposal fails to accord with Policy MD11 of the Shropshire Council's Site Allocations & Management of Development (SAMDev) Plan (2015), which requires tourism, leisure and recreation development to complement the character and qualities of the site's immediate surroundings, and to meet the requirements in Policy CS16 of the CS, amongst other things. The proposal also fails to accord with Policy MD2 of the SAMDev, which seeks to ensure development does not have a detrimental impact on existing amenity value by responding appropriately to the context in which it is set.

Other Matters

17. I acknowledge that there are benefits linked with the proposal, including the economic and social benefits associated with holiday trade and public access to the countryside. However, these benefits do not outweigh the harm I have identified.
18. I note the comments regarding the noise disturbance from the existing approved lodges on site and the ongoing investigation by Public Protection. This ongoing investigation will be a matter for Public Protection to take action where this is deemed necessary.
19. I acknowledge the financial constraints of the business in regard to the employment of a site manager to manage the site and enforce the rules. Although the employment of a site manager on site would have some benefit, it would not overcome my concerns with regard to the noise management plan and the cumulative impact of the proposal on the living conditions of neighbouring occupiers.
20. The Council have raised no objection to the proposal in respect of the effect it would have on the setting of the Grade II listed building, Ivy Cottage. Based on the evidence before me and the observations I made during my site visit, I find that it would have a neutral effect on the significance of the listed building and therefore would preserve its setting. However, this is a neutral effect and does not weigh in favour of the proposal.

Conclusion

21. As the proposed holiday units would be located closer to the neighbouring dwellings and would generate additional noise on site to the existing holiday lodges, there is a greater significant impact in terms of noise disturbance. I therefore attach significant weight to the impact of noise disturbance in determining this appeal. The benefits of the scheme do not outweigh the harm identified.
22. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
23. For the reasons given above I conclude that the appeal should be dismissed.

Helen Smith

INSPECTOR