



Appeal Decision

Site visit made on 22 February 2022

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Appeal Ref: APP/X1355/C/21/3282714

West Farm, Cold Hesledon, Seaham SR7 8RL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Tracey Robinson against an enforcement notice issued by Durham County Council.
 - The enforcement notice, reference EN/20/00733, was issued on 12 August 2021.
 - The breach of planning control as alleged in the notice is: The conversion of outbuildings for a material change of use of the land and buildings for use as Residential Holiday Lets.
 - The requirements of the notice are: Permanently cease the use of all outbuildings and associated land identified edged green on the attached plan for Residential Holiday Let accommodation.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on ground (a) only as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed. See formal decision below.

Matter of clarification

2. The National Planning Policy Framework (NPPF) was revised in July 2021. Where references have been made to paragraphs within the NPPF, I have considered them on the basis of the respective re-numbered paragraphs accordingly. There are no fundamental differences between the latest and the previous versions of the NPPF with regard to the various paragraphs and sections referred to by the Council and on behalf of the appellant.

Background information

3. The holiday-let buildings are located to the north of the appellant's house at West Farm, in this small hamlet of established residential and agricultural buildings, close to the Durham coastline between Seaham and Murton. The site is accessed via a narrow track leading from the B1432, close to its junction with the A19. The site lies in the open countryside and is within 6km of the Durham Coast Habitats Regulation Assessment Buffer (DCHRA).
4. Immediately to the east of the site planning permission (DM/18/00829) has been granted for 1500 dwellings, commercial and leisure uses at Seaham Garden Village (SGV). Cold Hesledon Industrial Estate is around 0.5 km to the north-west of the site. The Council has also referred to works having been carried out to the rear of West Farm to form a car park area and reference has also been made to the use of the land relating to the appellant's mother's house. However, these do not form part of the enforcement notice before me.

5. During my site visit I was able to drive and walk the length of the narrow access track from the B1342. From the main road to the appellant's property the track is around 400m in length and there are two other properties immediately to the west of her house (in separate ownerships) and one to the east (the appellant's mother's house). The two to the west are 'West Farm Old Barn' and 'West Farm Paddock'.

6. At a point approximately 300m from the B1342 the access road meets a junction at a property known as 'Hawthorn House'. This is to the south of the access road and another narrow surfaced track leads off further to the south to other properties within the hamlet. These are signposted at the junction as 'South Farm Cottage', 'Saddleback Cottage', 'Nord Cottage', 'Gloucester Cottage' and 'Tamworth Cottage'.

7. However, there is no signage to the 'West Farm Holiday Lets' which are then accessed via an unmade and unlit rough track which goes behind the properties 'West Farm Paddock' and 'West Farm Old Barn'. Neither did I see any signage from the B1342 to the holiday units. I refer to the first of the three holiday lets (seemingly capable of accommodating 4 people) as 'The Lodge'. It lies immediately behind the appellant's house and is very close to the boundary of the adjacent property, 'West Farm Paddock'. The other two units have been formed from a former separate, and slightly further away, stable building which is approximately 25m to 30m north of the appellant's house and that of her mother house. I refer to these two units as 'Stable 1' and 'Stable 2'.

8. At the time of my visit 'Stable 2', the western unit, was not in a state to be occupied and internal alterations appeared to be being carried out. 'Stable 1', the eastern unit, was not occupied but my inspection confirmed that this was capable of providing accommodation for up to 8 people. I noted three hot tubs associated with the three units. The first was immediately to the rear (to the north) of 'The Lodge', relatively close to the boundary of 'West Farm Paddock' and out in the open. The second was in a separately enclosed northern part of 'Stable 1' and the third was out in the open, adjacent to the northern boundary of 'Stable 2'.

The enforcement notice

9. As indicated above the enforcement notice was issued on 12 August 2021 and cites 2 reasons why planning permission should not be granted. These are as follows:

- a. The unauthorised holiday lets represent development that has an adverse impact on the residential amenity of occupiers of nearby dwellings contrary to Policies 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework (NPPF) and will have an adverse impact on nationally protected sites contrary to Policy 42 of the County Durham Plan and Part 15 of the NPPF and fails to make adequate provision for safe vehicular access to the site along the narrow adopted carriageway contrary to Policy 21 of the County Durham Plan and Part 9 of the NPPF and,*
- b. The Council believe that planning permission should not be granted because planning conditions could not overcome the negative impact(s) identified as a direct result of the holiday lets on the amenity.*

10. With regard to the alleged breach related to Policy 42, it is accepted, on behalf of the appellant, that this has not been complied with. However, the appellant has made a Unilateral Declaration (UU) to the effect that the required respective payments of £756.00 per holiday-let unit (three) have been deposited with her Solicitor. Clearly, if legally acceptable, this would mitigate against the potential impact on the local coastline in relation to the Coastal Buffer Zone and would remove this as an issue between the parties

11. However, having eventually received the signed UU, the Council's Solicitor has indicated that the Council is not satisfied with the UU. It is considered that should planning permission be granted a full Section 106 agreement would be required. I refer to this further below. I now turn, therefore, to whether or not planning permission should be granted for the development as carried out, having regard to the remaining issues between the appellant and the Council.

The appeal on ground (a)

12. These remaining main issues relate to:

- The principle of the development in this location,
- The effect on the living conditions of the occupiers of nearby dwellings,
- The effect on highway safety and the access to the three units.

Relevant Policies

13. Section 38(6) of the Planning and Compulsory Purchase Act states that, for the purpose of any determination to be made under the Planning Acts, it must be made in accordance with the plan, unless material considerations indicate otherwise. The most relevant Development Plan policies are contained within the adopted County Durham Plan 2020 (CDP). These are as follows: Policy 8 (Visitor Accommodation); Policy 10 (Development in the countryside); Policy 21 (Delivering Sustainable Transport); Policy 29 (Sustainable Design) and Policy 31 (Amenity and Pollution).

14. The NPPF is a major material consideration. It seeks to achieve sustainable development and the policy sections which remain particularly relevant are Sections 9 (Promoting sustainable transport); 11 (Making effective use of land and 12 (Achieving well-designed spaces).

The gist of the case for the appellant

Introduction

15. It is contended that planning permission ought to be granted for the development and the holiday let use being carried out. It is argued that the issues highlighted by the Council have '*either not manifested themselves or have already been addressed, given that the holiday lets have been in operation for over 4 years*'.

16. It is stressed that a 'Management Plan' (MP) is in use to ensure the competent management of the units, their occupants and the wider amenity issues. These are stated to include the management of waste, noise, car parking, and the arrival and departure times, etc.

The principle of development and access

17. On behalf of the Appellant it is indicated that the principle of the development, (the conversion of former farm buildings for holiday accommodation) has been acknowledged by the Council as being acceptable in this location.

18. It is further stated that any concerns regarding the vehicular access to and from the units cannot be sustained, given that they have been in operation for almost 4 years without incident. It is also stressed that, since the units have been in operation, the Council has granted planning permission for an additional house in the same area, using the same access road.

19. It is stressed that the use also supports the visitor economy; that such facilities are often found outside of settlements and that this is underpinned by the NPPF as follows: '*Planning policies and decisions should recognise that sites to meet local*

business and community needs in rural areas may have to be found adjacent to or beyond existing settlements.'

20. In accordance with the NPPF it is also stressed that the *'development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).'* It is indicated that the holiday lets are located within walking distance of local public transport services, shops, a supermarket, cafes and restaurants and a cinema.

Effect on amenity

21. The appellant agrees with the Council that the occupants of the holiday lets are unlikely to be impacted upon in terms of noise and disturbance by either the presence of a small industrial park at Cold Hesledon, or from the SBV development.

22. It is accepted that the manner in which the holiday lets are managed is a legitimate and material planning consideration. However, it is stressed that the Council's stance is based on a *'one off'* site visit and cannot, therefore, be cited as an example of how the units are managed on a day-to-day basis, given that the units have been in operation now for 4 years.

23. It is stressed that the FOI response indicates that there have been no *'formal planning related'* noise or disturbance complaints. Furthermore, it is contended that no *'planning related complaints'* were received in relation to noise or disturbance from vehicles coming and going at all hours of the day and night.

24. It is also noted that, since the start of the Covid 19 pandemic, the way in which people use services for the delivery of goods and food has drastically changed; that such deliveries have become the new normal and that restrictions cannot be placed on people visiting the area for a holiday. It is also indicated that it cannot be assumed that all visitors would want to use the services of local takeaway providers.

25. It is stressed that the units are self-catering; are fully equipped and that visitors come with the expectation that they can prepare and cook their own food. It is argued that even when visitors do use local services, this directly benefits businesses increasing trade and potentially contributing toward the creation and sustainability of local jobs in an area of relatively high unemployment.

26. The Council's scepticism of the ability of the appellant, to put in place a workable and competent MP is not accepted. It is stated that the basis of any workable MP is a Single Point of Contact (SPC). It is stressed that, as the appellant lives on site, then day-to-day management and the ability to be able to deal with any issues that arise immediately are more likely in this case than would be without an on-site manager.

Highway safety

27. It is not accepted that *'increasing vehicular movements due to increased holiday/residential use would result in the need to consider the introduction of a passing place mid-point along the adopted section of road as risk of conflict with opposing vehicles will increase'*. It is considered that there has been a complete lack of consistency in the advice provided by the Council's Highway Team (HT).

28. Detailed references are made to 4 previous applications, made between 2015 and 2021 (*DM/14/02770/FPA Refused and allowed on Appeal August 2015; DM/19/03566/OUT Approved August 24 2020; DM/21/02919/FPA Approved November 5 2021 and DM/18/02005/FPA*).

29. In all the above cases it is stressed that the HT found the proposals acceptable in terms of parking and/or highway safety. In one instance it was stated that a residential use would result in less demand on the road network than the previous existing equestrian use. It is also indicated that none of the applications referred to the need for a '*passing place*' along the access road.

30. It is also stressed that at no point within the HT safety comments is there any mention of the potential to consider the off-set benefits that have already been achieved by replacing the former stables and horse livery use with the holiday lets. The former equestrian use could accommodate up to 13 horses in livery, with each horse generating its own traffic to and from the stables.

31. At worst, the traffic position of the holiday lets, from a highway safety perspective, is considered to be neutral. The reduction in trips as a consequence of the loss of the stables and livery use is considered to be balanced out by the traffic generated by the holiday lets. More likely, it is argued that there has been a net reduction in traffic generated by the holiday lets when compared to the previous use.

32. In support the argument that there is no intensification regarding opposing vehicles meeting on the unclassified adopted road, submitted photographs of the grass verges on the side of the road clearly show that the verges are intact with no signs of wear that would be ordinarily associated with cars having to regularly pass each other.

33. Although the Council asserts that there is a lack of available parking spaces for people staying at the holiday lets, it does not go on to outline what standards it expects. The car parking provision to the rear of West Farm, which is adjacent to the holiday lets, will comfortably cater for 2 cars per holiday let and could provide more. Given the Council's sustainable transport aim is to reduce the reliance upon the car as a mode of transport, 2 spaces per holiday let is considered to be adequate.

Ecology

34. With regard to Policy 42, which deals with Internationally Designated Sites, the appellant has no objection to the conclusions contained within the Officer's Report and has put in place a Unilateral Undertaking (UU) to pay the relevant financial contribution of £756.61 per holiday unit, towards the Coastal Access and Monitoring Measures Programme.

Other matters

35. It is stressed that the holiday lets contribute positively towards the NPPF aim of '*Building a Strong, Competitive Economy*'. Reference is made to the contributions that small businesses can make when looking to create local employment; visitor accommodation; contributions through supplier chain spend; the use of local contractors and the contributions to the local economy through spending in local shops, cafes, bar restaurants, etc.

36. The importance that tourism and the visitor economy play in the overall ambitions of the Council to achieve sustainable economic growth is also referred to, as are the changing patterns with regard to UK staycations. It is stressed that the market trend has radically shifted with small operators able to make a contribution to the wider economy through the provision of good quality visitor accommodation. In County Durham '*Opportunities for Accommodation Providers*', focused on the gaps in the accommodation sector, with a very clear message that there was a chronic shortage of good quality self-catering accommodation and strong demand for and shortages, especially between April and October.

37. Regarding *'the build-up of waste arising as a result of that occupation which was notably present at the front of the site, awaiting collection at the time of the Officers site visit'* a judgement based upon one site visit is hardly considered to be representative of the general day-to-day management of the holiday lets.

38. In any case it is indicated that the management of waste is a pertinent issue for any dwelling or business operation and that, should the Council wish to offer additional advice with regard to bin storage areas (if required), then the appellant would be happy to be advised as to the most appropriate solution.

39. The Council's contention that a workable MP is *'likely to be overly complex and difficult to police'* is not accepted. A very high standard of management can be maintained in order to prevent issues becoming a potential statutory nuisance. It is stressed that the appellant is prepared to work closely with the Council and neighbours to enhance and improve the existing management plan.

40. On the point relating to delivery drivers being unable to identify the properties due to their location to the rear of West Farm, again this is not considered to be a reason in itself to refuse permission. Should there be a need to provide clearer signage then the appellant, who has control of most of the land where the signage is likely to be required, would be content to liaise with the Council to provide appropriate signage.

Covid 19 Restrictions and Complaints about the ongoing operation of the holiday lets.

41. The references to a breach of Covid Restrictions in the Council's Enforcement Report was inappropriate because the matter was subject to legal proceedings. It is not relevant to this appeal.

The gist of the case for the Council

Introduction

42. It is contended that the unauthorised holiday lets represent development that has had an adverse impact on residential amenity for the occupiers of nearby dwellings contrary to Policies 29 and 31 of the CDP and Part 12 of the NPPF. In addition it is argued that the development fails to make adequate provision for safe vehicular access to the site along the narrow adopted carriageway contrary to Policy 21 of the County Durham Plan and Part 9 of the NPPF.

43. It is stressed that the site is located within the open countryside and Policy 10 of the County Durham Plan (CDP) is relevant. This states that development in the countryside will not be permitted unless allowed for by specific policies in the plan, relevant policies within an adopted neighbourhood plan, or where the proposal relates to any of the exceptions named which includes infrastructure development, economic development or development of existing buildings.

44. The Council refers to Policy 8 (Visitor Accommodation) which supports new and extensions to visitor accommodation, provided it is appropriate to the scale and character of the area and not used for permanent residential occupation. In the countryside such accommodation also needs to meet an identified need and involve conversions which respect the character of the countryside and demonstrate how the location can be made sustainable.

The principle of the development

45. It is accepted that Policy 10 of the CDP is relevant. The Council also accepts that, as the proposal relates to the conversion of existing buildings with limited development around it, it is considered that the principle of the development is

acceptable in accordance with Policy 10, but that this is subject to formal consideration/compliance with other relevant policies.

Effect on visual and residential amenity

46. The Council indicates that Policy 29 of the CDP (and the NPPF) requires all development to achieve well-designed buildings and high standards of amenity and privacy to minimise the impact of the development upon existing occupants of adjacent and nearby properties. It is also indicated that Policy 31 states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities (again in compliance with the NPPF).

47. It is pointed out that the appeal site is set in a fairly remote rural area, with the A182 located approximately 162m to the north, the A19 some 471m to the west, and the B1432 392m to the west. Cold Hesledon Industrial Estate is some 478m to the west north-west. Therefore, the Council does not consider that holidaying occupants would be affected by either traffic or industrial noise. Reference is also made to the SGV (1500 homes and mixed commercial and leisure facilities site) which will be developed to the east of the holiday lets, some 50m from the converted buildings.

48. It is considered that the holiday lets will become Noise Sensitive Receptors in relation to the SGV and that the occupants of the holiday lets could be impacted upon in terms of noise and disturbance as a direct result of the SGV. However, given the distances involved and its current status, it is not considered that this would be unduly harmful.

49. With regard to the impact on surrounding neighbours, the Council stresses that holidaymakers are not permanent residents and that some may not have the same consideration towards neighbours that would normally be demonstrated by permanent residents. It is considered that this has led to an adverse and undesirable impact on the amenity of nearby residents due to noise from holidaymakers, particularly given the outside areas and hot tubs provided.

50. The Council notes that this is especially prevalent due to the three separate units. It is indicated that there will be a considerable amount of comings and goings, vehicular movements and parking manoeuvres; in addition to general noise and disturbance from potentially three separate groups of guests. There is also concern about the amount of waste which is generated. Although it is accepted that a MP may be able to control and mitigate some noise and amenity implications, it is considered that such a plan is likely to be overly complex and difficult to police.

51. The Council refers to complaints received which highlighted that numerous courier deliveries (relating to food orders) had occurred during all hours of the day and night. It is contended that this further compounds the appellant's ability to compose a workable and practical MP to address such concerns. Reference is made to the NPPF which requires planning decisions to ensure healthy living conditions; and an emphasis on the importance of securing healthy places.

52. Further reference is made to the NPPF where it seeks to ensure that new development is appropriate for its location considering the likely effects of pollution on health and living conditions. In terms of noise, it is stressed that the NPPF advises that planning decisions should mitigate and reduce to a minimum, potential adverse impact resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

53. It is accepted that holidaying occupants would not be unduly affected by either traffic or industrial noise. However, the Council refers to neighbours' concerns regarding frequent deliveries including disturbances from late night calls at the properties; take away drivers unable to find the correct access to the accommodation at the rear of West Farm and other residents being approached for directions to the three holiday let units.

54. The Council states that there have also been reported incidents of noise from vehicles arriving late at night to collect/drop off passengers to the properties who are staying at West Farm. It refers to situations whereby, due to poor lighting, guests are unable to make safe quiet access to the accommodation. It is also indicated that there have also been further noise complaints to the Council as a direct result of the outdoor activities in the hot tubs and other entertainment. It is stressed that on occasions, this has extended into the early hours of the next morning, stated to be '*largely due to guests' consumption of alcohol, and the frequent use of the accommodation by visitors for celebration parties (i.e. stag/hen/birthday events)*'.

55. The Council also refers to concerns being raised over environmental issues associated with the accumulation and ad-hoc storage of subsequent waste from the users of the holiday lets, such as packages from convenience foods, glass bottles and cans and other associated refuse from the accommodation users. The lack of any adequate scheme to cope with, and dispose of, the refuse from the site is in direct conflict with the NPPF, regarding pollution on health and living conditions.

56. The Council disputes the appellant's statement that an appropriate MP is in place. It is contended that, as a direct result of complaints received, no such plan would appear to be in place. It is further argued that, even if such a plan is in place, it does not appear to have been managed effectively.

Effect on highway safety

57. Policy 21 of the CDP is referred to by the Council and it is contended that the vehicle access/egress to the site from B1432 is an issue. This is stated to be due to the long narrow road and the use from existing residential traffic plus additional visitors to the holiday lets and associated vehicles such as food deliveries and taxis which may transport visitors to the local nightlife in the area.

58. It is contended by the Council that there is inadequate parking provision for the number of units and the potential number of visitors. It is also argued that the increasing vehicular movements, as a direct result of the holiday plus the residential use, results in the need to for the introduction of a passing place along the access. However, it is not considered that the provision of a passing place can be achieved due to the subject land/highway not being within ownership of the appellant.

59. The Council stresses that even if the land ownership is resolved and passing place(s) are achievable and implemented, it is unlikely that such a scheme will be able to manage and control the unacceptable increased level of vehicles associated with the holiday let use, in addition to existing local traffic. Therefore, this increase is considered to result in a detrimental impact on the established use of the existing access by other residential properties.

Ecology issues

60. The Council initially referred to Policy 42 (Internationally Designated Sites) of the CDP which states that development proposals which would potentially have an effect on internationally designates site(s), including all development within 0.4 km of the sites, as shown on Map B of the policies map document, either individually or in combination with other plans or projects, will need to be screened in the first

instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.

61. It is indicated that development will be refused where it cannot be ascertained that there would be no adverse effects on the integrity of the site, unless '*no alternatives*' and '*imperative reasons for overriding public interest*' as set out in Regulation 64 of Conservation of Habitats and Species Regulations 2017. In such circumstances where tests are met, appropriate compensation will be required in accordance with Regulation 68.

62. The Council's Ecologist has noted that the proposed development is within the 6km Durham Coast HRA buffer and therefore a financial contribution to the Coastal Access and Monitoring Measures Programme is required to mitigate impact the impact of the development on the SAC and SPA in lieu of on-site mitigation.

63. Without the payment of such a contribution, which can only be controlled through a full planning obligation, it is considered that insufficient measures to mitigate the impact of the development upon the Heritage Coast have been achieved. It is considered, therefore, that the development would result in an adverse impact upon the Northumbria SPA and Durham Coast SAC contrary to policy 42 of the CDP and Part 15 of the NPPF.

Conclusion

64. The Council considers that in its current form, the development has an unacceptable impact on the residential amenity of the surrounding neighbours through increased noise and disturbance which is further compounded by the level of complaints which are currently being received. The proposal, therefore, fails to meet the aims and objectives of policy 31 of the CDP and part 15 of the NPPF.

65. In addition, it was not considered that adequate mitigation had been provided to overcome the issues relating to the impact of the development upon the Heritage Coast have been achieved. It is considered therefore, that the development would result in an adverse impact upon the Northumbria SPA and Durham Coast SAC contrary to policy 42 of the CDP and Part 15 of the NPPF.

Representations on behalf of owners: West Farm Old Barn and West Farm Paddock

66. The above properties are either directly adjacent to the Holiday Letting units or very close. The tenant at 'West Farm Old Barn' raises the following concerns regarding the holiday let use, in relation to both of the above properties:

- The height and colours of the exterior walling of the holiday lettings.
- The impact on the drainage infrastructure and issues of blocked foul drains.
- Lack of adequate signage and constant disturbance by takeaway drivers and others attempting to deliver food/services to people using the holiday lets.
- Access is down an unsigned/unmade road to the rear of the two properties.
- Loss of quiet enjoyment of the residential lease terms.
- Noise and ant-social behaviour of some guests of the holiday lettings.
- Concerns regarding fire safety and compliance with Building/Fire regulations.
- Concerns over water regulations compliance, in particular Legionellosis - the holiday lettings have exposed exterior hot tubs.
- Concerns over fire spread to adjacent properties.
- Concerns over water safety and foul drainage capacities.
- Concerns over security and additional measures having to be installed.
- Concerns that the holiday lets will have an adverse effect upon valuations.

- Concerns over increased Council Taxes whilst the owner of the holiday Lets receives the benefits of waste removal and other DCC Services.
- Concerns over COVID 19 compliance by users of the holiday lettings.

My assessment

Introduction

67. In reaching my conclusions I have not given any weight to the Council's and/or others' references to an alleged breach of Covid Restrictions by the appellant. The case was dealt at Peterlee Magistrates Court. The issue is not material to the appeal before me.

68. On behalf of the appellant and with reference to a FOI response, it is contended that the Council did not provide firm evidence of any 'planning related' complaints about the use as being carried out. However, it is clear from the appeal submissions by others (see above) that there are material planning considerations and concerns regarding the use of the holiday lets over the last 4 years. These complaints have clearly been made to the Council. I have, therefore, taken all of these into account in reaching my conclusions on each of the main issues.

69. I have seen the Management Plan (MP) submitted on behalf of the appellant and this was sent to the LPA by the Planning Inspectorate (PINS) case officer. The LPA submitted comments and I refer to it in more detail below.

70. I agree with the Council's Ecologist that, should approval be granted for the use as carried out, a financial contribution to the Coastal Access and Monitoring Measures Programme would be required to mitigate the impact of the development on the SAC and SPA in lieu of on-site mitigation.

The principle of the development

71. The Council refers to Policy 10 of the CDP and accepts that, as the proposal relates to the conversion of existing buildings with limited development around it, the principle of the development is acceptable in accordance with Policy 10. It is also the case that, subject to other requirements, Policy 8 (Visitor Accommodation) supports new and extensions to visitor accommodation, provided it is appropriate to the scale and character of the area and not used for permanent residential occupation. In this case such accommodation meets the Council's identified tourist accommodation needs.

72. In conclusion, therefore on this issue, I consider that the principle of the provision of holiday let accommodation on this site is acceptable in policy terms. This is of course subject to the proposal not causing any significant issues which would render such a use being contrary to other policies within the DCP or the NPPF. I now turn to those issues.

The effect on the living conditions of nearby residents

73. Having noted the relationships of all of the other residential properties within this small hamlet, I share most the Council's and others' concerns regarding the effects of the use of the three units on the living conditions of the occupants of nearby properties. In particular, I have concerns about the effect on the living conditions of the occupants of 'West Farm Paddock' and 'West Farm Barn'.

74. The access to the three holiday units takes visitors close to the rear of both of these properties. The comings and goings of three potential groups of visitors along the unmade, unlit access track is, in my view, likely to cause undue disturbance to the occupants of these two properties particularly in the evenings

and at night. I consider that unacceptable levels of disturbance will arise with visitors arriving along this unlit access and then parking, unpacking and beginning to use the hot tub facilities. From the evidence before me it is also clear that takeaway deliveries to the units have added to the disturbance caused to existing residents within this small hamlet.

75. I consider that the situation is particularly harmful in relation to the use of 'The Lodge' which, in my view, is far too close to the boundaries of the adjacent dwellings. I consider that the use of the hot tub, in the open air outside 'The Lodge' and in such close proximity to the rear of the two neighbouring properties must have resulted in unacceptable levels of noise and disturbance for the occupants of both properties.

76. Whilst acknowledging that the appellant has attempted to deal with the hot tub use in the submitted MP (through timings), I am not convinced that this could be managed effectively, particularly with regard to 'The Lodge'. This is despite the fact that the appellant resides at the site and her adoption of the 'SPC' MP strategy. I consider that the use of the hot tubs (particularly that outside of 'The Lodge') by groups of partying (and likely at times to be inebriated) visitors will continue to result in unacceptable levels of noise and disturbance, particularly in the evenings.

77. I acknowledge that the other two units are much further away from the neighbouring dwellings. It may well be the case, therefore, that subject to a re-arrangement of the parking areas away from neighbouring properties and the enclosing of the hot tub for 'Stable 2' as is the case for 'Stable 1', the disturbance for neighbours, might not be significantly more than if the two units were permanent dwellings, as opposed to holiday lets.

78. In conclusion on this issue, therefore, I consider that the use of the three holiday lets, as currently carried out, is contrary to Policies 29 and 31 of the CDP, as well as to relevant policies within the NPPF. These aim to ensure well-designed places and to minimise the impact of any development upon existing occupants of adjacent and nearby properties and to ensure that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment.

The effect on highway safety

79. Having driven and walked along the access road, I do not consider that the addition of three units of accommodation within the hamlet (whether holiday lets or new dwellings) would be notably detrimental to highway safety. From the submissions I consider that the vehicle movements on the access road, for up to three more residential units, is most likely be much less than the previous livery use which serviced up to 13 horses.

80. Nor do I consider that there is a definite need for a passing place along the access road. Whilst accepting that one would be preferable, I noted that there was sufficient space for cars to pass each other along the main stretch, albeit by using parts of the verge which, in any case, did not show significant signs of damage due to passing vehicles. I also noted that most of the main stretch of road was visible from the B1432 and from the junction at Hawthorn House, allowing vehicles to wait for the passing of a vehicle in the opposite direction.

81. I have also taken into account the fact that the HT had not considered a passing place to be necessary for the other various developments allowed within the hamlet and that they had been consistent in their decisions in this respect.

This reinforces my view that, in this case, highway safety should not be a determining factor against a holiday let use within the hamlet.

82. In conclusion on this issue I do not agree with the Council that a refusal of planning permission should rely on the failure '*to make adequate provision for safe vehicular access to the site along the narrow adopted carriageway contrary to Policy 21 of the County Durham Plan and Part 9 of the NPPF*'. However, although I have concluded that road safety is not compromised and a passing place is not absolutely necessary, I do have concerns about the complete lack of signage to the holiday lets both from the B1432 and from the 'Hawthorn House' Junction.

Tourism Benefits

83. I acknowledge that the holiday lets contribute positively towards the NPPF aim of '*Building a Strong, Competitive Economy*'. I also understand the importance that small businesses can make when looking to create local employment and provide visitor accommodation. It is clear that in County Durham '*Opportunities for Accommodation Providers*', focused on the gaps in the accommodation sector and that there is a shortage of good quality self-catering accommodation, as well as strong demand for and shortages of accommodation, between April and October. Thus, this point is in favour of the appellant's business.

Other Matters

The Unilateral Undertaking

84. I have noted the appellant's frustration at the seemingly changed position of the Council regarding the UU and the fact that there have been officer continuity issues in dealing with this appeal. But clearly the Council's Solicitor has concerns about the UU and these include those related to lack of information regarding the title of the land; no trigger for when the payment should be made and the reference to full planning permission being issued. I, therefore, agree with the Council that, as drafted, the UU cannot be guaranteed to secure the necessary full planning obligation.

85. In any case, irrespective of the acceptability of the UU, as indicated below, my conclusion is that planning permission should not be granted for the three unit holiday let use. It is clear, however, that should any future planning permission be granted for any holiday let accommodation on the site, the Council would be willing to enter into a deed of variation to discharge the UU and thereafter enter into a new S106 planning obligation which would adequately secure the necessary planning obligation regarding the necessary payments. I agree that a secure obligation would mitigate against the potential impact on the local coastline in relation to the CBZ.

The Management Plan

86. Having considered the submitted Management Plan and the Council's comments on the document, I share the Council's scepticism about its effectiveness and consider that it lacks detail in many areas. Although there is a section entitled '*How to get Here*' there is no simple map and using the postcode SR7 8RL and travelling from the north, I was directed along the A182 before having to double back along the B1285 and on to the B1432.

87. As indicated above there is no signage from the B1432. Having found the access road the next issue is a complete lack of signage to 'The Lodge' and 'The Stables' at the 'Hawthorn House' junction. In my view it is not at all surprising that takeaway delivery drivers cannot immediately find the holiday lets and have had to disturb other residents at various times of day and night.

88. This reinforces my view that the MP lacks the necessary detail to properly and fully inform and advise visitors about access and directions to the site; all general instructions to staying in the units at the site and other aspects such as parking, management of waste and use of the facilities.

Overall Conclusion

89. I have found in the appellant's favour with regard to the principle of the holiday let use, highway safety and the tourism benefits of the accommodation. However, I consider that the location and use of 'The Lodge', in particular, is significantly harmful to the living conditions of the occupants of 'West Farm Paddock' and 'West Farm Old Barn'. This harm far outweighs any favourable findings in support of the appellant's case.

90. With regard to 'Stable 1' and 'Stable 2', I consider that with appropriate parking provision away from the neighbouring properties, the use of just 2 units could be acceptable. To be acceptable however, it would also be necessary to revise the layout and design of 'Stable 2' by enclosing and screening the hot tub area. I also consider that there would need to be a more detailed and comprehensive Management Plan in place. This would also be a need for adequate signage and lighting from the 'Hawthorn House' junction to the units.

91. Because of all of these necessary changes I do not consider that a split decision (that is, refusing permission for 'The Lodge' and granting permission for the other two units) is appropriate. A new full planning permission would be required and it would also be necessary to put in place a new fully agreed S106 planning obligation to mitigate against two units being used for holiday let purposes within the CBZ.

92. In reaching my conclusions I have taken into account all other matters raised. These include the initial statements by the main parties and interested persons and parties; the officer reports; the full planning history and the final comments. However, none of these carries sufficient weight to alter my conclusions on the main points at issue and nor is any other factor of such significance so as to change my decision.

Formal Decision

93. The appeal is dismissed and the enforcement notice is upheld. The planning permission deemed to have been made under section 177(5) of the Act is refused.

Anthony J Wharton

Inspector