



Appeal Decision

Site visit made on 21 June 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 August 2022

Appeal Ref: APP/N1160/W/22/3291010

St Annes House, Jennycliff Lane, Plymouth PL9 9SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Neal Stoneman against the decision of Plymouth City Council.
- The application Ref 21/01811/S73, dated 30 September 2021, was refused by notice dated 30 November 2021.
- The application sought planning permission for change of use to wedding venue and hotel/holiday accommodation (re-submission of 19/01144/FUL) without complying with conditions attached to planning permission Ref 20/00418/FUL, dated 24 November 2020.
- The conditions in dispute are Nos 4, 6, 7, and 8 which state that:
 - 4: CONDITION: RESTRICTIONS ON THE USE
All catering and music in association with the use hereby approved at the site shall only take place within the main house known as St Annes House as shown on plan numbers 1602/25 REVA and 1602/26 and shall not take place outside the hours of 10:00 and 23:00, and there shall be no fireworks set off on the site.
 - 6: CONDITION: NO MORE THAN 30 PEOPLE
In accordance with the submitted management plan, no more than 30 people and 6 staff, shall attend any function held at the site.
 - 7: CONDITION: NO MORE THAN 28 WEDDINGS PER YEAR
In accordance with the submitted details, there shall be no more than 28 wedding events in one calendar year at the site.
 - 8: CONDITION: MANAGEMENT PLAN
Unless otherwise previously agreed in writing with the Local Planning Authority, the development hereby approved shall be carried out in accordance with the Management Plan dated 24th November 2020 V 5 as submitted with this application.
- The reasons given for the conditions are:
 - 4: To ensure that the proposed use complies with the submitted details and does not give rise to unacceptable noise and disturbance to near neighbours and to ensure compliance with policy DEV2 of the Plymouth and South West Devon Joint Local Plan, the accompanying Supplementary planning Document 2020 and the NPPF.
 - 6: To ensure that the proposed use complies with the submitted details and does not give rise to unacceptable noise and disturbance to near neighbours, or cause parking problems and to ensure compliance with policy DEV2 and DEV29 of the Plymouth and South West Devon Joint Local Plan, the accompanying Supplementary planning Document 2020 and the NPPF.

7: To ensure that the proposed use complies with the submitted details and does not give rise to unacceptable noise and disturbance to near neighbours and to ensure compliance with policy DEV2 of the Plymouth and South West Devon Joint Local Plan, the accompanying Supplementary Planning Document 2020 and the NPPF.

8: To ensure that the proposed use complies with the submitted details and does not give rise to unacceptable noise and disturbance to near neighbours, or cause parking problems and to ensure compliance with policy DEV2 and DEV29 of the Plymouth and South West Devon Joint Local Plan, the accompanying Supplementary planning Document 2020 and the NPPF.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the proposal given in the application form refers to conditions Nos 4, 6 and 7 only. However, Part E of the appeal form states that this description has been changed. Written confirmation from the Council has been provided, stating the revised description as: "Removal of Conditions 4 (restrictions on the use), 6 (no more than 30 people) & 7 (no more than 28 weddings per year) and variation of condition 8 (management plan) of application 20/00418/FUL". I have considered the appeal on this basis.

Background and Main Issues

3. The appeal site contains a detached dwelling (a Grade II listed building), sat within areas of green space. Several outbuildings are also present within the site.
4. Planning permission was granted in November 2020 for a change of use to a wedding venue and hotel/holiday accommodation¹ at the site. That permission imposed planning conditions, including, amongst others, restrictions on the use with regards to catering, music and fireworks (condition No 4), a limit of no more than 30 people and 6 staff attending any function held at the site (condition No 6), a limit of 28 wedding events in one calendar year at the site (condition No 7), and a requirement that the development is carried out in accordance with a Management Plan dated 24th November 2020 V 5 (condition No 8).
5. The Council imposed these conditions to ensure that the approved use did not give rise to unacceptable noise and disturbance to near neighbours, or cause parking problems.
6. The appellant is seeking to remove conditions Nos 4, 6, and 7, and to vary condition No 8, to remove restrictions relating to music and catering outside of St Annes House and the hours it can be undertaken, the number of people attending functions, and the number of functions allowed within a year. In relation to this, the Council's decision notice has raised concerns relating to noise and disturbance, and the free-flow of traffic on the local road network and public and highway safety.
7. The main issues in this appeal are therefore the effect that removing conditions Nos 4, 6 and 7, and the variation of condition No 8, would have on the living

¹ 20/00418/FUL

conditions of neighbouring occupiers with particular regard to noise and disturbance, and the effect of the proposal upon the safety and free-flow of traffic along Jennycliff Lane.

Reasons

Noise and disturbance

8. The proposal seeks to vary condition No 8, to refer to an updated Management Plan (Version 7). In this regard, I note that the Management Plan provides that music and outside gatherings associated with the approved use would cease by 23:00 hours.
9. I have had regard to the latest version of the Noise Impact Assessment² (NIA). I accept that background baseline noise in the local area does vary and there are loud activities that happen in the vicinity, including that relating to Jennycliff Café and football matches near the site. In this regard, I have taken account of the ambient noise survey, detailed in the NIA.
10. The NIA provides recommended noise mitigation measures. One of these measures refers to a structure over the swimming pool area, which the NIA states should provide at least 10 dB(A) of sound insulation in relation to music generated in that location. However, whilst I observed a marquee over the swimming pool area, from the information before me it appears that no planning permission has been granted for any marquee, nor for any other similar structure.
11. Hence, currently there is little certainty that a 10 dB(A) attenuation from a swimming pool area structure would be provided. Based on the figures given in Table 4 of the NIA for Receptor C (noted in the NIA as being the worst affected receptor), the feasible source noise level without any structure over the swimming pool area would be 84 dB(A) between 07:00 - 23:00 hours.
12. The NIA provides a caveat that if it is not possible to install a structure over the swimming pool area then a music limiter will need to be set to a lower level. However, the NIA states that typical commercial levels in the range of 87 to 95 dB(A) at 1m make a dancefloor feasible in line with the common expectations of guests and event organisers, with a level of 90 dB(A) for music between 07:00 - 23:00 hours being sufficient for the site.
13. Consequently, on the evidence before me I consider that the proposal lacks adequate certainty that music can be played at a level that is commercially viable between 07:00 - 23:00 hours. It also follows from this finding that it would not be reasonable to impose an additional condition stating a decibel limit on music played outside the main house, as suggested by the appellant, as this limit would likely be commercially unviable.
14. This also has the consequence that if music were to be played at a commercially viable level, the music would exceed the background noise level by more than 5 dB between 07:00 - 23:00 hours, which the NIA has adopted as the baseline to ensure that the relevant planning policy requirements are met. In this scenario, the noise and disturbance caused by the music would be likely to cause harm to the living conditions of neighbouring occupiers.

² St Anne's House, Wedding Events, Noise Impact Assessment, Report No. 21-0090-0 R01 (dated 18th November 2021), Sustainable Acoustics Ltd.

15. Furthermore, Table 4 of the NIA states that a screening attenuation of 5 dB(A) is provided near Receptor C, but minimal details have been provided to explain how this figure has been arrived at. Accordingly, it is unclear whether the 5 dB(A) is an accurate reflection of the level of attenuation that the screening might provide in that location. All this leads me to find that condition No 4 is reasonable and serves a necessary purpose in limiting music in association with the use to only take place within the main house. It follows that condition No 8, which refers to a Management Plan which currently reflects the restrictions referred to in condition No 4, is reasonable and necessary in its present form.
16. With respect to noise generated by people, the lack of any certainty that attenuation from a swimming pool area structure could be achieved means that, based on the figures provided at Table 5 of the NIA, the noise level at Receptor C would be approximately 35 dB LAeq, T for spoken speech and approximately 42 dB LAeq, T for raised speech. These levels of noise would be above the background noise level given in Figure 3 of the NIA, of 33 dB(A) for background levels at 07:00 - 23:00 hours.
17. Whilst on this basis the level of noise generated by spoken speech would not likely be more than the 5 dB baseline level referred to above, the noise generated by raised speech would likely be above this level. As voices may be raised during parts of an event due to music being played, and given the lack of clarity as to how the screening attenuation figure for Receptor C has been arrived at (stated in the NIA to provide 5 dB(A) of attenuation), in my view the evidence does not convincingly demonstrate that during a 'worst case event' the noise generated by people would not be unreasonably intrusive to the occupiers of dwellings near to Receptor C particularly during the late evening when residents would reasonably expect a degree of quietude.
18. The proposal before me seeks to remove condition No 4 in its entirety. It has not been suggested that condition No 4 could or should be varied in any way. No suggested wording has been provided for this purpose. As such, it is unclear whether varying condition No 4 to allow catering to take place outside the main house, but retaining the restriction on music only being played within the main house, would nullify the benefit of the permission in terms of its viable operation as a wedding venue. Thus, on the basis of the evidence and the specific application before me, it would not be reasonable for condition No 4 to be varied in relation to its reference to catering.
19. Considering the above, it would not be reasonable to impose a condition relating to hours of operation in line with the Premises Licence, as condition No 4 appropriately restricts catering and music to take place within the main house and specifies the appropriate hours which are excluded.
20. The proposal also seeks to remove condition No 7 in its entirety. Although the associated noise level does not necessarily increase along with an increase in the frequency of events, the representations from local residents indicates that the current use of the premises for social activity is clearly apparent at neighbouring properties. In this regard, I note that the NIA is based on the scenario of 28 weddings per year, and accordingly does not take account of the cumulative effect of disturbance which may arise due to the comings and goings of people to the venue potentially multiple times per month.
21. On this basis, I consider that it is likely that allowing an unrestricted number of weddings a year would provide additional scope for potential negative effects to

occur in terms of disturbance to neighbouring occupiers. Consequently, condition No 7 is reasonable and serves a necessary purpose in limiting the number of wedding events per year.

22. The appellant has mentioned that a Premises Licence has been secured to serve alcohol with food both inside and outside the main house within the grounds of the site. Even so, the securing of such a licence does not of itself change the likely effects of the proposal in relation to noise and disturbance in the terms I have described above. I have also had regard to the opinion of the Council's Environmental Health team. However, I am not bound to fall in line with any previous decision or opinion of the Council. Moreover, whilst there is an overlap, the aims and objectives of the environmental health and licencing regimes and the planning system are not the same. For these reasons, these matters do not change my findings.
23. Similarly, even though a Wedding Licence has been secured for the venue, the proposal before me is based on the commercially viable outside music levels as detailed above, which based on my findings are unlikely to be feasible at the site at present. The fact that the Council has not instigated any action regarding noise levels at the site also does not change my findings, as the proposal before me relates to a materially different state of affairs than that which presently exists.
24. In light of my finding above that a commercially viable wedding venue with music in the swimming pool area would not be possible due to inadequate noise mitigation, and considering that the site can accommodate a maximum of 30 guests for overnight stays, condition No 6 is reasonable and necessary in providing a limit of 30 people at any function held on site.
25. It has been asserted that 6 members of staff is unrealistic for a wedding, but little details and no case studies have been provided to substantiate this. Considering this, and that condition No 6 limits the number of people to 30, in my view 6 staff is a reasonable for weddings of this size. Condition No 6 does not specify the roles of the 6 staff but this would not be desirable as flexibility is required due to the likely differing requirements of particular wedding parties.
26. I have considered whether a Noise Management Plan could be required by condition, to allow for further mitigation and specification in terms of managing events, and whether a condition could be imposed requiring gaps in vegetation to be closed, but considering the clear unfeasibility of the current proposal with respect to music generation, referred to above, it is unlikely that such measures would adequately mitigate the harm identified.

Safety and Free-Flow of Traffic

27. Condition No 6 restricts the size of functions on site to 30 people and 6 staff. As the proposal seeks to cater for events with up to 150 people in attendance, the proposal would entail a considerable uplift in the likely numbers of people requiring car parking. As noted in appeal decision Ref APP/N1160/W/20/3256121, any parking on Jennycliff Lane would be likely to interrupt the free-flow of traffic and could cause congestion along this section of the local highway network. Therefore this situation must be avoided.

28. The appellant has mentioned that 1 car parking space would be required per 3.5 guests, meaning that a maximum of 43 car parking spaces would be required. Given the type of events allowed by the approved permission, this appears reasonable.
29. 10 car parking spaces are shown on the approved site plan³. For the application now before me at appeal, the Local Highway Authority has stated that 14 car parking spaces serve the site.
30. The appellant has also mentioned use of the green space to the eastern side of the access road on site for informal overflow parking. However, whilst I saw that green space area, the exact number of spaces that could potentially be provided in that green space area has not been stated. No details of the specific access arrangements into that area have been given. In the absence of such information, it is not my role to speculate on the numbers of car parking spaces that may or may not be available in any given location. The lack of details provided in relation to how many car parking spaces could reasonably and safely be accommodated in that green space area means that I can only give this matter limited weight in my assessment under this main issue.
31. Jennycliff Car Park is located a short distance from the site. As the Inspector in appeal decision Ref APP/N1160/W/20/3256121 noted, this is a sizeable free public car park. However, the appellant does not own this car park. As such, although the Inspector in appeal decision Ref APP/N1160/W/21/3283463 noted that there is nothing of substance to demonstrate that it would be unsuitable or inadequate to accommodate any increase in demand for off-site car parking, it is the case that the appellant has no control over the operation of the car park, either in the short or the long-term.
32. Furthermore, although only a 'snapshot' in time, on my site visit I observed that the car park, whilst not full, was particularly busy. Whilst the Inspector in appeal decision Ref APP/N1160/W/20/3256121 stated that he was informed that the car park is rarely full, the photographs now provided by the Council and my own observations indicate that on busy days the numbers of available spaces at the car park are often limited. These matters, taken together, limit the weight that can be given to the public car park as alternative parking provision.
33. Mention has also been made of another public car park to the south of the site. Its exact location has not been provided, but given that a car park serving a football ground is on the opposite side of the road to the site, I presume that this is the car parking area in question. However, at the time of my site visit the vehicular entrance to this car park, opposite the site, was blocked by a metal gate and a plastic barrier. Accordingly, and in the absence of evidence to indicate otherwise, I consider that it has not been demonstrated that this car park would necessarily be available for use in connection with events taking place at the appeal site.
34. I am mindful that attendees may arrive by a mix of transport modes including buses, trains, coaches, taxis, and private cars. However, the Council have stated that the closest bus stop is currently only being served by one bus service and the closest train station is approximately 4.7 miles away from the site. These facts have not been disputed by the appellant. As such, given the

³ Proposed Area for Wedding Use (drawing no. 1602/34 Rev. E)

location of the appeal site, I consider that it is much more likely that the majority of attendees will arrive on site via private vehicles.

35. A wedding venue is quite a different operation from the nearby Jennycliff Café, in that potentially up to 150 people could arrive on site at or near the same time. For this reason, the situation at Jennycliff Café is not directly comparable with the proposal before me.
36. Thus, in light of the limited availability of car parking on site, the removal of condition No 6 and the variation of condition No 8 would lead to demand outweighing supply in terms of the availability of car parking on site, which in all likelihood would not be resolved by car parks off-site, meaning that these conditions are both reasonable and necessary.
37. The deficiency in the provision of car parking spaces is of such a scale that neither a Parking Management Plan (proposed to be required by condition), nor the use of on-site marshals as specified in the updated Management Plan, would adequately mitigate the detrimental effects identified.
38. Whilst the Management Plan could be required to state that weddings must limit the amount of vehicles attending the venue, or alternatively advising the prospective couple that parking provision on site is for a certain amount, given the maximum number of attendees proposed set against the parking provision available it is unclear whether such restrictions would be feasible in practice. As such, none of these matters changes my finding that vehicles associated with events on site would likely have to park on Jennycliff Lane, which would have a detrimental effect upon the safety and the free-flow of traffic along the lane.

Planning Balance and Conclusion

39. Taking all of the above into account, I therefore find that the proposed removal of conditions Nos 4, 6 and 7, and the variation of condition No 8, would have an unacceptable and harmful effect on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance, and that the proposed removal of condition No 6 and the variation of condition No 8 would have a detrimental effect upon the safety and free-flow of traffic along Jennycliff Lane. Accordingly, all these conditions are reasonable and necessary in their present form.
40. As such, the proposal would conflict with policies DEV1 and DEV2 of the Plymouth & South West Devon Joint Local Plan 2014-2034 (adopted 2019) (Local Plan) which collectively provide that, amongst other things, development proposals will be required to safeguard the health and the amenity of local communities. The proposal would conflict with Policy DEV29 of the Local Plan which provides that, amongst other things, development proposals should ensure sufficient provision and management of car parking in order to protect the amenity of surrounding residential areas and ensure safety of the highway network.
41. The proposal would conflict with the advice given in the Plymouth & South West Devon Joint Local Plan 2014-2034 Supplementary Planning Document (adopted 2020) (SPD) which provides that, amongst other things, development must ensure that it does not incur an unacceptable impact from resulting noise, and with paragraph 185 of the National Planning Policy Framework (the Framework) which provides that, amongst other things, planning decisions should mitigate

and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. The proposal would also conflict with the advice given in the SPD which provides that, amongst other things, development must have an acceptable impact on the highway network.

42. I now turn to other matters which have been mentioned in support of the proposal. In this regard, it has been suggested that an Event Management Plan could be required by condition, but little details have been provided as to what this plan might entail over-and-above the updated Management Plan. Given the scope of the proposed updated Management Plan, I consider that an Event Management Plan would not be necessary.
43. The Council did not refuse the application on matters relating to the character and appearance of the area, landscape designations, the listed building or its setting, nor in relation to ecology or biodiversity. However, even if I were to likewise reason that the proposal would be acceptable in these respects, and in compliance with the development plan and the Framework, these would be neutral factors rather than ones which weigh positively in favour of the proposal.
44. The proposal would allow for greater flexibility in the hospitality offering available on site, which might positively impact on the stability and viability of the appellant's business. These economic benefits would then likely extend to the local and wider economy and may assist the appellant in the upkeep of the listed building.
45. I have carefully considered all the potential benefits of the proposal, summarised above, in the light of the ongoing coronavirus (COVID-19) pandemic. I appreciate that the hospitality industry as a whole, which includes venues offering food and accommodation, has been particularly hard-hit by the pandemic, including through 'lockdowns' and Government restrictions.
46. Nevertheless, minimal details have been provided as to the potential economic benefits which would likely arise via the proposal. Similarly, whilst it may be the case that weddings of a maximum of 30 people are not common, few details have been provided to substantiate the claims that should the appellant have to continue to operate within the confines of the existing planning consent, the appellant may have to make staff redundant and eventually close the business, which could also potentially result in the listed building not being maintained. For these reasons, taking all the above factors into account, I give no more than moderate weight to all the benefits of the proposal.
47. Set against these benefits is the significant planning harm that would be caused via the proposal's unacceptable and harmful effect on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance, and its detrimental effect upon the safety and the free-flow of traffic along Jennycliff Lane.
48. I therefore find that the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harm identified, nor the conflict with the development plan.

49. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR