



Appeal Decisions

Site visit made on 20 September 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal A Ref: APP/F0114/W/22/3298757

18 Raby Place, Bathwick, Bath, BA2 4EH

- 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 Bath Hot Houses against the decision of Bath and North East Somerset Council.
- The application Ref 22/00723/FUL, dated 17 February 2022, was refused by notice dated 13 April 2022.
- The development proposed is the change of use from C1 (bed and breakfast) to commercial holiday let accommodation for up to 12 people (sui generis).

Appeal B Ref: APP/F0114/W/22/3291659

18 Raby Place, Bathwick, Bath, BA2 4EH

- 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 Bath Hot Houses against the decision of Bath and North East Somerset Council.
- The application Ref 21/04202/FUL, dated 10 September 2021, was refused by notice dated 19 November 2021.
- The development proposed is the change of use from C1 (bed and breakfast) to commercial holiday let accommodation for up to 25 people (sui generis).

Decision

1. Both appeals are dismissed.

Preliminary Matters

2. As set out above there are two appeals on this site. They differ only in the number of people the holiday let can accommodate. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
3. The appellant confirms in their application form that the change of use has been completed. This was confirmed during my site visit where I counted 25 bed spaces. Therefore, permission is sought retrospectively for Appeal B.
4. The appellant has submitted additional noise information with the appeal. This is partially in response to the Council's reasons for refusal and some third-party comments. The additional information is not extensive, and the Council and third parties have had the opportunity to comment during the appeals process. I therefore do not consider that any party would be prejudiced in my taking account of this information.

Main Issue

5. The main issue for both appeals is the effect of the proposed development on the living conditions of the occupiers of nearby properties with regard to noise and disturbance.

Reasons

6. 18 Raby Place is located in an area characterised by terraces of three and four storeys largely in residential use but with other uses nearby such as hotels, shops and student accommodation. The appeal building itself is a three storey, end of terrace building, previously used as a bed and breakfast and located above the Great Western Railway. Raby Place is a fairly busy road leading traffic from the nearby A38 towards Bathwick and the University of Bath campus. No 18 is located on the corner of Raby Place and Sydney Wharf in close proximity to the road and the majority of the dwellings/buildings have no off-street parking provision. I noted at my site visit, during the mid morning, that there is a moderate background noise level from traffic on the surrounding road network. I acknowledge that this is a snapshot in time and that at other times the background noise level may be different, including when trains are passing.
7. The transient pattern and occupancy of holiday let accommodation and its associated service provision can all combine to increase general comings and goings to a property beyond what would normally be expected with a dwellinghouse use. However, the appeal building has a lawful use as a bed and breakfast. As such, there would likely be some comings and goings associated with its previous use. Nevertheless, a bed and breakfast would have on site management to immediately deal with any noise and disturbance issues. The bed and breakfast was limited to using four bedrooms, however the appellant asserts that the size of the rooms were large enough to accommodate 4-5 individuals.
8. Whilst there appears to be a guest selection process, a noise monitor has been installed within the property and a 'Good Neighbour Policy' is given to occupants to stress the importance of respecting nearby residents there is no one on site to control or manage the occupants to ensure this happens. If unacceptable noise levels (in excess of 80dB for 5 minutes) are recorded by the monitor text messages and calls are made to remind occupants of their policy, potentially leading to the electricity to the property being cut off, disturbance to neighbouring properties would still occur whilst this process was being undertaken. Additionally, whilst guests may lose their deposit this would not stop potential disturbance, and may only serve to stop such guests from returning. The policy reflects a genuine desire on the part of the appellant to ensure that neighbours are not inconvenienced. But, as the supervision of the property only appears to extend to meeting guests when they arrive, and cleaning in between lets, ensuring that the rules are adhered to appears to be very much down to individual guests.
9. Moreover, the appellants submission details that even with these measures in place that there have been issues in relation to the property and noise/disturbance, with complaints submitted to the Council regarding noise and disturbance. Furthermore, noise and disturbance can also be generated by general activities that take place outside of the property, such as those

associated with the coming and goings of the occupants and the service provision and the use of outdoor space.

10. Whilst I have not been provided with a detailed breakdown of occupancy figures, the appellant states that since the opening of the property (1 May 2021) for letting to large groups there have been 26 bookings. Additionally, they advise that whilst the maximum number of occupiers is 25 the average occupancy rate is just over half this number. It is not inconceivable that a greater number of stays, together with associated activity could be carried out. This could increase the potential for further disturbance to the neighbours. Likewise, the possibility that the ownership of the property could change at some stage in the future, and a future owner may have less regard for the well-being of the neighbours, cannot be discounted. These are all longer term matters that I have to have regard to.
11. Even though there is no evidence of a statutory nuisance, activity associated with a large group of people entering or leaving the accommodation, even if this amounted to no more than conversation, together with vehicles stopping and starting, and the closing of car doors, could well be disturbing to the neighbours whose living conditions would be adversely affected to a significant degree. The disturbance associated with a large group (both 12 and 25 individuals) leaving at once would also be markedly different to the movements of four smaller groups or couples using a bed and breakfast.
12. In this respect, the impact of both developments upon occupiers of neighbouring properties is intensified by the close proximity of those neighbours, particularly given the concerns I have outlined regarding the nature and intensity of the issues arising from both schemes.
13. I acknowledge that there appears to be a mix of student housing and commercial activities in the surrounding area. However, the transient nature and frequent turnover of occupants that would be associated with the development would not normally be associated with that type of accommodation.
14. I have had regard to the appellant evidence, including CCTV footage and recordings, relating to existing noise levels in the area, particularly with regards to car doors, people shouting outside and the train. However, these are isolated noises that cause short amounts of disturbance, rather than the potential sustained noise levels associated with large groups, and particular those at unsociable hours.
15. I conclude that the pattern, nature and intensity of use, at such close proximity to neighbouring dwellings is and would be for both schemes, more than likely, materially harmful to the living conditions of neighbouring occupiers with regard to noise and disturbance. It follows that both developments do not comply with Policy D6 of the Bath and North East Somerset Local Plan (2014) which, amongst other things, requires that development does not cause significant harm to the amenities of existing occupiers. Both developments would also be at odds with paragraph 130 of the National Planning Policy Framework which seeks to ensure there is a high standard of amenity for existing users.

Other Matters

16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. 18 Raby Place is a Grade II listed building. Neither party have concerns during the appeal regarding the listed building. Local residents have commented that works have been undertaken without permission from the Council, however the Council have advised that they have no evidence that works have been undertaken and the introduction of CCTV did not require consent. Based on the evidence before me, and the fact that no internal or external alterations are required to facilitate the change of use, I am satisfied that the development would have a neutral effect on, and therefore preserve the special interest of the listed building.
17. As the proposal lies within the Bath Conservation Area (CA), I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Neither party have raised this as a concern during the appeal. Based on the evidence before me, including the scale of the development and the fact that the development would not alter the external appearance of the building, I am satisfied that the proposal would have a neutral effect on, and therefore preserve, the character and appearance of the Conservation Area.

Conclusion

18. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeals should be dismissed.

Tamsin Law

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/F0114/W/22/3298757	Bath Hot Houses
Appeal B	APP/F0114/W/22/3291659	Bath Hot Houses