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## Appeal Decision

Site visit made on 17 October 2022

**by J Symmons BSc (Hons) CEng MICE**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> November 2022**

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**Appeal Ref: APP/N2739/W/22/3300333**

**The Fenton Flyer, Main Street, Church Fenton, Tadcaster LS24 9RF**

- 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 Karl Hebden of Fenton Flyer Limited against the decision of Selby District Council.
  - The application Ref 2021/1127/FUL, dated 7 September 2021, was refused by notice dated 17 December 2021.
  - The development proposed is described as 'change existing beer garden to five touring/camping pitches with electric hook up. Placing a mobile amenity block plumbed into existing mains drainage and erection of one glamping pod'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. It was evident from my site visit the development's electrical hook up points and mobile amenity block have been predominantly completed and are essentially in accordance with the proposed drawings. While the pitches were not in use during my visit, I understand that the campsite has been in use. I have considered the appeal on this basis.
3. The layout plan reference LAY02 was revised during the Council's determination of the planning application to show the correct land ownership and planning boundaries. The revision did not change the details of the proposed development. I have therefore used the revised layout, reference LAY02 Revision A, in this appeal.
4. With the appeal, the appellant submitted a Campsite Noise Assessment, Reference 3612\_N01\_EXT3, dated 1 June 2022 (Noise Report). This information only assesses the noise from the development, and all parties have had the opportunity to comment on it through the appeal process. I do not consider that any interests would be prejudiced if I take it into account. I have therefore considered the Noise Report in determining this appeal.

### Main Issue

5. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring properties with regards to noise and disturbance.

### Reasons

6. The Fenton Flyer public house fronts Main Street and Nanny Lane. It is in a predominately residential area with the nearest neighbouring properties being

to the opposite side of Nanny Lane and, Ambleside and Allendale which are located adjacent and to either side of the site. The public house has a front carpark area, small outdoor seating and play area and hot food takeaway building. To the rear is a large grassed outdoor area and beyond this are agricultural fields. It is understood that the public house is prohibited from using the external areas between 23:20 and 07:00 and there are similar time restrictions on the playing of music within the public house and the operation of the hot food takeaway.

7. The properties to the opposite side of Nanny Lane are separated from the development by the carpark and road. This gives these properties reasonable protection from potential noise or disturbance from the proposed pitches. The boundary to Ambleside, has sparse landscaping and low fencing. In addition, other than the narrow public footpath, separation of the development to this property is very limited. Similarly, one camping pitch is directly adjacent to the common boundary with Allendale. While there is a building and relatively high fence and wall to this boundary, there is minimal separation. In both cases there is therefore limited protection from potentially noisy activities associated with the proposed development.
8. In all probability, prior to the development and due to the restrictions on use of the external areas and the semi-rural setting, the rear and front areas would have been relatively quiet and peaceful during night-time hours. The proposed use therefore introduces the potential for new noisy activities in the area during night-time periods which could adversely affect neighbours located close to some of the camping pitches.
9. To assess noise levels, the appellant has provided a Noise Report. The report provides an assessment of the potential noise impact should guests have a 'normal' conversation during the night-time. Notwithstanding the lack of specific noise standards for the proposed use and measured background sound levels at the site, it concludes that this would produce noise levels within the nearby neighbouring properties which would be below the night-time levels recommended in both the Freedom Camping Club Criteria and the World Health Organisation Night Noise Guidelines for Europe 2009.
10. The report suggests that increased levels of noise such as raised voices, amplified music and manoeuvring vehicles would be unlikely as guests self-regulate noise levels. However, accepting that such activities would be unreasonable during night time hours and give rise to undue disturbance, the report suggests that a noise management plan could mitigate against the risk of this and provides an outline of what such a plan could include. Amongst other aspects, it proposes no vehicular movements or amplified music or raised voices after 23:00, not allowing large groups and any under 18s without supervision, and neighbours being provided with contact details for a site manager.
11. However, limited details are provided to demonstrate that such a plan could be effective and enforceable. It seems to me that there would be a heavy reliance on the goodwill of the guests to observe the rules, and robust and rapid policing of any breaches. The site also has open access and controlling night-time arrivals or leavers would therefore likely be difficult. The procedures for controlling large groups and under 18s from booking under separate or alternative names has not been outlined. Reference is made to use of curfews

similar to that used through the booking system known as Pitchup however, details of this are not given and I therefore cannot be sure how this would operate satisfactorily. Although reference is made to a designated site manager, little evidence that this person would be on site at all times to enforce the rules has been provided. While neighbours would be given the site manager's phone number, no details of how this would resolve any disturbance that are identified has been given.

12. Overall, the details provided are therefore insufficient to demonstrate that noise control would be reliable, rapid and effective. Accordingly, the development presents a high risk of adversely affecting neighbours' sleep quality. While the occurrence of these louder noise risks each night may be low, it would still only take intermittent occasions to cause disturbance which would harm the neighbours' quality of life.
13. I accept that a planning condition could ensure completion and subsequent implementation of a noise management plan. However, due to the limited details provided and the various uncertainties and concerns I have identified above, I am not satisfied that a condition could be imposed that would meet the tests set out in the Framework in respect of being enforceable, precise and reasonable. In addition, although reference is made to using an acoustic fencing to the eastern boundary, little substantive evidence has been provided to demonstrate that this would address my concerns regarding the control of louder noise impacts.
14. The site has been inspected on a number of occasions by the Council with no noise disturbance identified, however due to this being based on short term monitoring, it does not reliably demonstrate that night-time noise would not occur. There have also been a large number of representations from neighbours in the vicinity about existing noise and disturbance resulting from the current use of the site. I am mindful that once disturbance has started it would already be too late for those affected. On this basis, due to uncertainty regarding the ability of the noise management plan to mitigate any breaches of the site rules, a precautionary approach is justified.
15. While noise from other activities and events, including at Church Fenton airport and agricultural machinery, may exist, little evidence has been presented to show that these cause noise disturbance to neighbours. In any event, and irrespective of whether such activities occur around the clock, this does not warrant further harm that I have found with the development.
16. In conclusion, the proposed development would harm the living conditions of the occupiers of neighbouring properties with regards to noise and disturbance. This conflicts with saved Policies ENV1, ENV2 and RT12 of the Selby District Local Plan (2005), Policies SP13 and SP19 of the Selby District Core Strategy Local Plan (2013) and Policies AS1 and BE1 of the Church Fenton Neighbourhood Development Plan (2020-2027). These policies seek, amongst other matters, to ensure development does not unacceptably harm the amenity of adjoining occupiers or the community.
17. The development also does not accord with paragraph 130(f) of the National Planning Policy Framework which seeks to ensure developments create places with a high standard of amenity for existing users.

### **Other Matters**

18. I recognise that the appellant raises concerns regarding the lack of response from the Council's Environmental Health Officer. However, this is a procedural matter between the appellant and the Council and does not affect the merits of the case.
19. The site is within the development limits of Church Fenton and the Council has not raised concerns with the principle of the appeal proposal. Situated in an accessible location, the development would attract tourism to the village and the surrounding area which would contribute to the local economy and the existing public house business. I acknowledge that the appellant has already invested money into the appeal proposal, which would support the commercial future of the public house. I also understand the public house has had to cope with the various business impacts and recovery from the Covid pandemic and is said to need to diversify to secure its long term viability. Nevertheless, these matters do not outweigh the harm I have identified nor the conflict with the development plan.

### **Conclusion**

20. In conclusion, the development would conflict with the development plan, when read as whole. Material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

*J Symmons*

INSPECTOR