



Appeal Decision

Site visit made on 10 January 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th January 2023

Appeal Ref: APP/G2713/W/22/3306218

Moor View Lodge, 151 High Street, Great Broughton TS9 7HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A 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 Collin Donaldson against the decision of Hambleton District Council.
 - The application Ref 22/01446/MRC, dated 14 June 2022, was refused by notice dated 22 August 2022.
 - The application sought planning permission for the change of use of land for holiday accommodation and siting of 2 holiday lodges with associated drive area at land to the rear and associated alterations to access, without complying with a condition attached to planning permission Ref 21/00779/FUL, dated 11 June 2021.
 - The condition in dispute is No 11 which states that: *the principal elevation of the two lodges must face inwards towards one another and not have doorways on the rear elevation.*
 - The reason given for the condition is: *in order to protect the amenity of occupiers of the dwellings to the north, as per the requirement of policy DP1.*
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for holiday accommodation and the siting of 2 holiday lodges with associated drive area at land to the rear and associated alterations to access at Moor View Lodge, 151 High Street Great Broughton, TS9 7HB, in accordance with the application Ref 22/01446/MRC made on the 14 June 2022 without complying with condition No 11 set out in planning permission 21/00779/FUL granted on 11 June 2021 by Hambleton District Council, and subject to the attached schedule of conditions.

Preliminary Matter

2. At the time of my site visit, 2 lodges had been installed on concrete pads at the appeal site. Whilst the development appears to accord with the submitted plans in terms of its layout, there are deviations regarding the form, fenestration pattern and internal layout of the lodges. Having had regard to the overall scale and position of the proposed development I am satisfied that there is sufficient detail on the submitted plans to assess the impact of the proposed removal of condition 11, on the living conditions of neighbouring occupiers. In reaching my decision, I have assessed the development as shown on the submitted plans and not as built on site.

Background and Main Issue

3. Planning permission was granted for the change of use of land and the siting of 2 holiday lodges under application reference 21/00779/FUL, subject to a condition requiring the units to face inwards with no doors on the rear

elevation. The Council advise that the separation distance between the lodges, specifically the northern-most lodge and the neighbours to the north, in combination with the proposed intervening landscaping, was adequate to address general noise and disturbance and privacy issues. However, condition 11 was deemed necessary to discourage occupants from sitting outside in proximity to neighbouring dwellings to the north.

4. In light of this, the main issue is whether the disputed condition is reasonable and necessary in the interests of protecting the living conditions of neighbouring occupiers, with particular regard to noise and disturbance from outdoor seating.

Reasons

5. The appeal site comprises land to the rear of 151 High Street, a detached dwelling set well back from the main road that runs through the village of Great Broughton (B1257). The area is predominantly residential in character with dwellings on Cringle Moor Chase backing onto the appeal site to the north.
6. Despite the Council's reasons for imposing condition 11, the wording does not refer to any controls to prevent occupants from sitting outside in a particular place. In addition, it appears to conflict with and does not reference the approved floor plans and elevations drawing (01 Rev F), which were controlled by condition 2 of the same approval (21/00779/FUL). The plans clearly indicated a doorway would be positioned on the northern elevations of both lodges which I understand were to be identical in layout.
7. Whilst I agree in theory the northern-most lodge could be positioned to not have any doorway on the northern elevation, this was not what was shown on the plans that were approved. Nor does condition 11 require the reorientation of the northern-most lodge. Furthermore, the wording of the condition provides a restriction on doorways within the rear elevation of the lodges without specifically identifying the elevation. Given the layout of the lodges, the condition is ambiguous as to which elevation the restriction would apply.
8. Although the concerns of the interested parties relating to privacy, security and disturbance are understood, the planning permission that has already been granted, nonetheless enables the residential occupation of the proposed units. This therefore accepts that typical activities associated with such a use will take place, involving comings and goings and outdoor activities including sitting out. Occupants would therefore be free to come and go and sit outside anywhere within the appeal site, regardless of whether there is a door within the northern elevation of the northern-most lodge.
9. The 2 storey dwellings of 14 and 15 Cringle Moor Chase include first floor windows within the rear elevation that would face towards the northern elevation of the northern-most lodge. Therefore, even if a door was to be present in the northern elevation of this unit, future occupants would be unlikely to sit outside in this location as they are likely to feel overlooked from No 14 and 15. In addition, the area being to the north of the unit would experience less direct sunlight, such that future occupants would be more likely to sit elsewhere within the site and away from neighbouring dwellings. I find that the position of a door does not dictate where occupants would sit outside. As a standard height close boarded fence has been erected along the southern boundaries of the dwellings on Cringle Chase Moor, there would be no overlooking of the ground floor rooms or gardens of these adjacent dwellings from the appeal site. In any event I saw during my visit that there was

- sufficient distance between the northern-most lodge and the adjacent properties, and I concur with the Council's view in this respect.
10. Furthermore, I note that any door within the northern elevation of the northern-most unit, would be at the furthest point away from the proposed car parking area. Given that the lodge would back onto a group of mature trees, future occupants are more likely to walk from the proposed car parking area to the doorway within the eastern facing elevation as it would be more conveniently located for access. A door within the northern elevation of the northern-most lodge is therefore unlikely to be used. Even if it were, it would be in accordance with the terms of the use of the lodges as holiday accommodation, granted by the previous permission, and would not imply sitting out would occur adjacent to it. Even if it did, it would be unlikely to give rise to significant noise and disturbance that would be over and above that which could occur elsewhere within the appeal site from the approved use.
 11. The removal of condition 11 would apply to both lodges. However, the neighbouring dwelling of 153 High Street to the south is set closer to the road and therefore, further away from the proposed position of the lodges, particularly the southern-most unit. The position of doorways on the units would not give rise to noise and disturbance that would adversely affect the neighbouring occupiers of No 153.
 12. For the above reasons the disputed condition is not reasonable or necessary, in the interests of protecting the living conditions of the neighbouring occupiers, with particular regard to noise and disturbance. The development without the disputed condition would thus comply with saved Policy E2 of the Hambleton Local Plan (2022) and the provisions of the National Planning Policy Framework relating to protecting the amenity of existing users.

Conditions

13. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original permission that continue to have effect. The parties agree that conditions 6, 8, 10 and 12 of 21/00779/FUL have previously been discharged. Therefore, I shall impose all those that I consider remain relevant.
14. I have listed the approved plans the subject of this appeal for the avoidance of doubt and in the interests of certainty. Conditions relating to the provision of visibility splays and car parking spaces prior to occupation are reimposed in the interests of highway safety and the landscaping condition is retained as it deals with replacement planting in the event of tree/hedgerow loss. Conditions to ensure that the units are used solely for holiday purposes and are managed by the occupants of the host dwelling are retained, in the interests of protecting the living conditions of neighbouring occupiers. Finally, I have reimposed previous condition 10 which although discharged, would allow for the replacement of the lodges if required in the future, and will ensure that such replacements are appropriate to the character and appearance of the area.

Conclusion

15. The proposal would be in accordance with the development plan as a whole and material considerations do not lead me to decide otherwise. For these reasons and having regard to all other matters raised, the appeal is allowed.

M Clowes - INSPECTOR

Schedule of Conditions

1. The permission hereby granted shall not be undertaken other than in complete accordance with the following drawings;
 - Site location and proposed block plan
 - Existing and proposed plans and elevations 01 Rev F
 - Proposed drainage plans 05
 - Proposed entrance plan and visibility splays 03 Rev B
 - Kerb layout general arrangement TSC550/01
 - Site management plan.
2. The landscaping scheme shown on drawing 01 Rev F shall be planted in full accordance with the plans within the first available planting season prior to the development coming into use. In the result of any tree/section of hedge dying or being removed, it must be replaced like-for-like.
3. The holiday lodges hereby approved shall be managed only by the occupiers of 151 High Street, Great Broughton, unless otherwise agreed in writing by the Local Planning Authority.
4. There must be no access or egress by any vehicles between the highway and the application site until splays are provided in accordance with the submitted drawing 03 Rev B. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
5. No lodge must be occupied until the related parking facilities have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.
6. The development must comply with the following requirements that:
 - (i) the caravans or cabins/chalets are occupied for the holiday purposes only;
 - (ii) the caravans or cabins/chalets shall not be occupied as a person's sole, or main place of residence;
 - (iii) the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans/cabins/chalets on the site, and of their main home addresses. The owner/operator shall advise the Local Planning Authority of the name and address of the holder of the records and shall make the information on the register available at all reasonable times to the Local Planning Authority.
7. The development hereby approved shall be for no more than 2 caravans which shall measure no more than 12.3m long by 6.2m wide and 4.3m in height. Prior to the installation of the units, details of the external finish and colour shall be submitted to and approved by the Local Planning Authority. The units shall be installed and maintained in accordance with the approved details.