



Appeal Decision

Site visit made on 25 January 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2023

Appeal Ref: APP/N2739/W/22/3305067

Cobblers Cottage, Pinfold Hill, Wistow, Selby, North Yorkshire YO8 3UN

- 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 Mrs Hayley Lamb of Langley Properties (North) Ltd against the decision of Selby District Council.
 - The application Ref 2021/1455/COU, dated 25 November 2021, was refused by notice dated 15 July 2022.
 - The development is described as 'Change of use from residential property to holiday let. The property is rented via Sykes Cottages. There are 'house rules' the guests must abide by, if they do not we can ask them to leave. These rules include no outdoor gatherings after 11pm and no loud music outside at anytime.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The change of use to a holiday let has already commenced. Whilst at my site visit I observed the dwelling arranged with 5 bedrooms, the plans provided indicate 4 bedrooms, and I have determined the appeal based on the plans before me.

Main Issues

3. The main issues are the effect of the development on a) the supply of residential accommodation within the area; and b) the living conditions of the occupiers of neighbouring properties, with specific regard to noise and disturbance.

Reasons

Supply of residential accommodation

4. The appeal site comprises a detached dwelling set within a private garden within the village of Wistow. It is common ground between the parties that the property is being managed by a lettings agency as a short term commercial holiday let, for groups of up to 10 people.
5. Saved Policy H5 of the Selby District Local Plan (February 2005) (LP), sets out that a net loss of residential accommodation will only be permitted where certain criteria are met. The supporting text to this policy suggests that this is to make the best possible use of the existing housing stock, to reduce the demand for greenfield sites. As the appeal property and its environment remain suitable for residential use, and the appeal scheme does not involve a

comprehensive development with significant environmental or highway gain, or wider community benefit, or a small-scale community use, the scheme before me does not satisfy the detailed criteria of saved Policy H5.

6. However, saved LP Policy RT11 relates specifically to tourist accommodation and thus is of direct relevance to a scheme for a holiday let. It supports the principle of providing tourist accommodation within defined development limits, and its supporting text confirms that accommodation proposals may include changes of use and conversions of existing buildings. The policy's supporting text also recognises that the availability of a range of accommodation is a key factor in establishing a successful tourist industry, and I note that the National Planning Policy Framework (July 2021) (the NPPF) promotes a prosperous economy and sustainable rural tourism.
7. Thus, whilst the development necessitates a net loss of residential accommodation leading to identifiable conflict with saved Policy H5 and potential increased demand for greenfield sites to meet housing demand, there are other policy provisions of direct relevance that dictate that a small net loss of residential accommodation should not be resisted in the particular circumstances of this case. I therefore find that the development has an acceptable effect upon the supply of residential accommodation within the area.

Living conditions

8. The appeal property contains off road parking and a garden area to the front, accessed off a private drive. To the south of the house is a further garden area containing outdoor seating, a hot tub and a built-in barbeque. This area is accessed via large bi-fold doors from the internal dining area. To the rear is a further area of outdoor seating. The gardens are contained by high stone walls. The plot is surrounded by a close arrangement of dwellings and gardens. At the time of my visit, the area was quiet, with audible background noise arising only from occasional passing cars, birdsong and garden tools.
9. I have been provided with limited information as to the frequency and intensity of use of the holiday let to date. Typically, short term holiday lets would be available all year round and could include either a weekend stay or up to one or two weeks, with a regular changeover of visitors. I understand that the appeal property can accommodate up to 10 adults, suggesting that the holiday let could be used by one family, multiple or extended families, or by groups of people or friends. Parking, and the timing and regularity of traffic movements, would differ from those typical of a single household, as would the frequency of use of outdoor facilities. Those on holiday would be likely to dine and drink outside often, and use the hot tub and barbecue facilities on a regular basis, where weather conditions allow. This would inevitably give rise to a greater degree of noise and disturbance to adjoining residents when compared to use of the property by a single household, which would be exacerbated in this case by the proximity of neighbours within a residential area that would typically be quiet.
10. This realistic potential for noise and disturbance is borne out in representations made by interested parties, who reference having experienced noise and disturbance at all times of the day, including into the early hours of the morning. Instances of loud music, shouting and foul language, are referred to, along with excessive traffic movements. No logs have been provided by

neighbours and so I do not have before me any detailed evidence as to the frequency of such disturbances, but complaints have been made directly to the letting agent with, I understand, no subsequent improvements reported.

11. The appellant highlights that a Noise Management Plan (NMP) is in place, which is sent to guests along with the rules of the site before bookings are accepted. This specifies no events and no outside gatherings after 2300 hours. I have not been provided with a copy of the NMP and so cannot reach any firm conclusions as to its robustness and likely effectiveness in controlling noise and disturbance, which is an important factor in my deliberations. Further, the penalty for a breach of the NMP is that guests are asked to leave. Whilst this may act as a deterrent for some, where it does not, potential harm to the living conditions of those occupying neighbouring properties would have already occurred.
12. I have considered the possible conditions suggested by the Environmental Health Officer, relating to the use of speakers, the timing of audible noise and the use of signage. However, I have reservations as to the practicalities of complying with the conditions related to speaker use and the timing of noise, and their enforceability. For example, it would be difficult for visitors to gauge how audible music or speech would be inside a neighbouring property and it is unclear if this would be with windows open or closed. Further, the restrictions would only apply after 2300 hours, which could still result in neighbouring residents experiencing disturbance at other times of day and late into the evening. Further, the provision of signage requesting that guests avoid causing noise out of respect for local residents would not necessarily acceptably control the behaviour of guests.
13. To conclude on this main issue, in the absence of clear and convincing evidence to the contrary, the development causes harm to the living conditions of occupiers of neighbouring properties, having specific regard to noise and disturbance. The scheme conflicts with saved LP Policy ENV1, which amongst other matters, seeks to ensure that new development takes account of the amenity of adjoining occupiers. Whilst not cited on the Council's Decision Notice, the scheme also conflicts with saved LP Policy RT11 which, amongst other provisions, permits tourist accommodation only where the proposal would not have a significant adverse effect on local amenity. Further, the scheme does not meet the requirements of the NPPF in terms of providing a high standard of amenity for existing users.

Other Matters

14. I note a lack of any technical concerns relating to highway safety, this is a neutral matter and so would not carry any weight for or against the development.
15. In terms of the scheme's benefits, it provides accommodation to support rural tourism and there are associated economic spin offs such as employment associated with the operation of the holiday let and spending in the local economy (including within Wistow itself) by visitors. However, due to the limited scale of development under consideration, these benefits attract modest weight insufficient to outweigh the harm to the neighbouring living conditions that I have identified.

Conclusion

16. The development conflicts with the development plan when read as a whole and there are no material considerations, including the NPPF, worthy of sufficient weight, that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

S Brook

INSPECTOR