



Appeal Decision

Site visit made on 13 June 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2023

Appeal Ref: APP/G2713/W/23/3315644

Sunrise View, Main Street, Linton On Ouse, North Yorkshire YO30 2AY

- 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 Grenville Long against the decision of Hambleton District Council.
 - The application Ref 22/02230/FUL, dated 26 September 2022, was refused by notice dated 6 December 2022.
 - The development is use of annex as guesthouse and retention of in situ rooflight.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Hambleton District Council has merged with several councils to form North Yorkshire Council. The development plans for the merged local planning authorities will remain in place for the area within the new authority until such time as they are revoked or replaced. I have determined the appeal on this basis.
3. The appeal documents include two proposed block plans. The Council's evidence confirms that only proposed block plan 02 V2 was submitted with the planning application, and its details accord with those shown on the location plan and the red and blue line boundaries shown on the unnumbered and annotated by hand plan submitted with the planning application and appeal. I have therefore determined the appeal on the basis of proposed block plan 02 V2.
4. The proposal seeks to regularise deviations from the approved plans for the annex, which relate to a rooflight not being installed and a different size and design for the two windows on the south elevation. The Council has not raised a concern about these matters, and I have no reason to take a different view. My decision therefore focuses on the change of use of the annex to a guesthouse.
5. The development has been implemented, with bookings having taken place. I have dealt with the appeal on that basis.

Main Issue

6. The main issue is the effect of the development on the living conditions of neighbouring residents with regard to privacy, noise and disturbance.

Reasons

7. The appeal site is part of the rear garden of the mid terraced dwelling at Sunrise View. There is a single storey outbuilding that extends along the approximate midpoint of the rear gardens of Sunrise View, the adjoining property at 2 The Cottages and Dickinson's Cottage which is the end property to the west. The rear gardens of the dwellings then extend to the north beyond the outbuilding. The largest part of the outbuilding is used as ancillary accommodation for Dickinson's Cottage¹. The smaller eastern part of the outbuilding lies within the garden of Sunrise View and was granted planning permission for use as ancillary accommodation² for this dwelling.
8. The development is for the change of use of the annex at Sunrise View to enable it to be used as guest accommodation. Guests would have access to the patio which lies on the other side of the annex from the host dwelling. At the time of my site visit this area had a table, chairs and a chiminea, typical of the kind used in domestic gardens. There are a number of wall lights along its eastern boundary which, based on the submitted evidence, are of a relatively unobtrusive luminance beyond the patio.
9. The patio is located very close to the ancillary accommodation of Dickinson's Cottage including what is described in the evidence before me as windows serving a bedroom. Based on the submitted evidence and what I saw on my site visit, both windows are relatively small, with the one nearest the patio being fixed and obscured glazed and the other being obscured glazed. Nevertheless, given the proximity, occupiers of the ancillary accommodation would very likely be aware of people making use of the patio.
10. It would not be unreasonable for residents of the annex and/or the host dwelling to use the patio as outdoor amenity space in which to enjoy typical garden activities. Some noise and disturbance would therefore be generated from the use of the patio by residents of Sunrise View and the annex. This may include from talking and sitting out into the evening, which could involve the use of the lighting and the chiminea. Residents of the ancillary accommodation at Dickinson's Cottage will therefore already experience some noise and disturbance given its proximity to the patio.
11. However, while appreciating that the accommodation would be unlikely to be occupied by more than two people and so large gatherings would not arise, the use of the annex for short-term holiday lets would introduce a level of activity which is more intensive than its use as ancillary accommodation. Guests would be reliant on the facilities within the annex as opposed to facilities in the host dwelling. When at the building, guests' day and night-time activity would be focused on it as well as the associated patio. Given the small size of the accommodation, the patio would provide additional space for guests, and thus would encourage users to sit outdoors. This type and level of activity by people independent to the residents of the host dwelling would be very different in character to the use of the building as ancillary accommodation with an intrinsic connection to the host dwelling.
12. I acknowledge that it cannot be presumed that guests would behave in an anti-social manner or increase opportunities for crime, and no substantive evidence

¹ Permission reference 19/02550/FUL

² Permission reference 21/01606/FUL

has been provided to demonstrate that such behaviour has occurred with previous guests. However, for the reasons given above, the nature of the use as a short term holiday let would materially increase the general noise and disturbance for residents of the ancillary accommodation of Dickinson's Cottage given the close proximity of the patio area in particular.

13. The appellant contends that if the ancillary accommodation for Dickinson's Cottage was being used for '*visiting family*' as stated in the description of the development that was granted permission rather than the main residence of the applicant for that development, then the concerns would not exist as it would only be used on rare occasions. It is beyond the scope of this appeal to determine whether or not the current use of the ancillary accommodation for Dickinson's Cottage is lawful. However, the conditions on the planning permission for this ancillary accommodation do not appear to impose restrictions on the length of time during which it can be occupied.
14. The submitted evidence indicates that the owners of Sunrise View have a right of access along land to the west side of the terrace and the north side of the ancillary accommodation of Dickinson's Cottage to reach the rear garden and garage. Except for guests' first arrival, access to/from the annex would be over this land.
15. This access passes very close to the rear of the ancillary accommodation for Dickinson's Cottage and through the garden areas to the rear of the terrace. Despite the presence of two outbuildings, much of the northern part of this area is visible in vantage points along the access. The rear garden of Dickinson's Cottage that lies in between the dwelling and its ancillary accommodation is very open where the access runs along its western boundary. There appears to be no/very limited divisions between Dickinson's Cottage and 2 The Cottages here and so clear views are afforded of the garden areas of both properties and the rear elevation of Dickinson's Cottage in close proximity when on the access.
16. I appreciate that third party access rights already exist over this land, including to residents of 2 The Cottages, Sunrise View, and the owner of one of the outbuildings. However, as stated above, the nature of the use of the building as a short term holiday let is different to its use as ancillary accommodation. For residents of these nearby properties, the comings and goings of holiday guests would be different in nature to those of neighbours, with the loss of privacy being more intrusive than is currently the case. This would diminish the neighbouring residents' use and enjoyment of their properties and gardens.
17. The part of the garden where the hot tub and associated small seating area are located is screened on three sides by a fence and on its south side by the garage of Sunrise View. Given the separation distance, its enclosed nature and the low level lighting, the use of this area would not result in a material increase in noise or disturbance to a point where it would significantly harm the nearby residents' enjoyment of their properties or gardens, nor would it result in an unacceptable loss of privacy.
18. The appellant sets out measures that it is contended would mitigate disturbance to neighbouring residents. This includes having a relatively low level of occupancy, restricting lettings to the spring, summer and autumn seasons, restricting the times for the use of the patio and hot tub in the evening, requesting that guests are respectful of neighbours, instructing guests

to enter and leave via the host property rather than the access path, and providing neighbouring residents with a schedule of when guests would be staying.

19. A number of the measures proposed would rely on the appellant being alert, present and prepared to intervene in the event of a breach, and on guests responding positively. Even if the accommodation was to be occupied on a relatively low frequency, I am not sufficiently confident that it could be successfully managed without causing harm to the living conditions of neighbouring residents, given the layout of the appeal site and the nearby properties. Furthermore, I am not of the view that all of the proposed measures would be reasonable or enforceable to meet the requirements of paragraph 56 of the National Planning Policy Framework.
20. For the reasons given above, the use of the annex as a guesthouse would cause unacceptable harm to the living conditions of nearby residents with regard to privacy, noise and disturbance. The proposal would therefore conflict with the residential amenity requirements of Policies E2 and EG8 of the 2022 adopted Hambleton Local Plan.

Other Matters

21. The development would provide some benefits to the rural economy through the provision of visitor accommodation which would support tourist related attractions and via spend in local services, including those near to the property. There is no substantive evidence to demonstrate that on-street parking associated with the use would result in an unacceptable impact on highway safety, and the building itself does not harm the character and appearance of the area. None of the other matters raised alter or outweigh my conclusions on the harm that would arise.
22. I note the appellant's concerns regarding the Council's handling of the case. However, in determining this appeal, I am only able to have regard to the planning merits of the case.

Conclusion

23. The proposal would conflict with the development plan taken as a whole. There are no material considerations of sufficient weight that would indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR