



Appeal Decision

Site visit made on 24 September 2020

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2020

Appeal Ref: APP/F3545/W/20/3247539

Liberty House, Hepworth Road, Market Weston, Diss, Suffolk, IP22 2PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Juliet Hargrave for JJ Leisure Holdings Limited against the decision of West Suffolk Council.
 - The application Ref DC/19/0344/FUL, dated 28 January 2019, was approved on 22 August 2019 and planning permission was granted subject to conditions.
 - The development permitted is change of use from single dwelling house (use class C3) to a holiday let property (sui generis).
 - The condition in dispute is No.2 which states that: "The holiday-let use of the property hereby permitted shall be discontinued and the property shall revert back to a single C3 dwelling house within 12 months from the date of this planning permission".
 - The reason given for the condition is "to ensure the proposal is able to satisfactorily comply with the provisions of policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy policies, the permission hereby granted is of a temporary nature so that the noise impacts arising from the site may be considered further in 12 months".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant considers that an application for the change of use of Liberty House to a holiday let was unnecessary. However, the Council considered that a change of use was required and allowed the application subject to conditions. The appellant has appealed condition No.2 of the planning permission and I must determine the appeal as submitted.

Main Issue

3. The main issue is the effect that removing condition No.2 would have on the living conditions of neighbours in respect of noise and disturbance.

Reasons

4. Liberty House is a large dwelling in extensive grounds and capable of providing up to 8 bedrooms. It is located within the open countryside and mainly borders fields. Access is via a trackway leading from Hepworth Road. The trackway passes the dwellings of Hartmoor, Stone Cottage and Walnut Tree

- Farm before reaching the appeal site. A pair of semi-detached dwellings is located at Nos.1 and 2 Hepworth Road, next to Walnut Tree Farm.
5. The appeal was dated 22 February 2020, whereas the reason for condition 2 was so that the noise impacts arising from the site could be considered further in 12 months' time from 22 August 2019.
 6. The appellant considers that Condition 2 is unnecessary as no noise complaints had been received by the Council since June 2018. Nevertheless, several objections regarding noise and disturbance from the holiday let use of Liberty House were received by the Council in response to the planning application. There were also 3 letters of support. The objections were from residents near to the appeal site and from more distant locations up to around 1.9 km away. Matters raised by residents included noise disturbance from loud music and voices late at night, noise from fireworks and startling of horses.
 7. The Council's Public Health and Housing Officer advised, in commenting on the application for a change of use, that "that there are a number of holiday lets in the District and it is unusual to receive complaints from neighbours about the behaviour of those who rent them and so I cannot see why this one would be any different". However, in this case, it seems to me, evening noise generation is related to the size of the property, its location and the relatively high number of holiday guests who can be accommodated.
 8. The appellant submitted an acoustic report (entitled Noise Management Plan) with the application to the Council. This put forward measures to control internally generated noise such as playing loud music including a noise monitoring device to be installed in the living room so that hirers could be warned if they were making excessive noise. For outdoor noise, it advised that the house terms forbid sound systems to be used in external areas of the property and the use of fireworks is also forbidden. There should also be no external noise between 22:00 and 09:00 hours. The terms warn hirers that they could lose their deposit on refusing requests to reduce noise risk. A complaint procedure is also suggested partly involving the opportunity for local residents to email any noise complaints to the property owner for investigation.
 9. However, despite these measures it is difficult to envisage how the amount of outdoor noise from people's voices or music could be prevented, given the extensive grounds, no indication of any continuous supervision in person on site and because of the number of people who could stay at the property. This is a relatively tranquil rural area with little background traffic or any other noise sources. The Council has the power to deal with excessive noise as a statutory nuisance. However, this would rely primarily upon the receipt of public complaints and after any noise incidents had occurred.
 10. The Council's Public Health and Housing Officer, although not objecting to the proposed use, advised that requirements to reduce noisier external activity, particularly after 22:00 hours "could prove more challenging". The Officer suggested that conditions be placed upon any permission that required the appellant to adopt the noise management measures that they had proposed. However, the Planning Officer's report to the Development Control Committee advised that a condition requiring the installation of a noise management system would neither be reasonable nor necessary.

11. Condition No.3 was attached to the permission requiring the submission of a noise management plan within 2 months from the date of the permission. The appellant has submitted a copy of the plan dated October 2019, which was submitted to the Council in accordance with that condition. The appellant advises that the plan has been accepted by the Council, but the condition has not been discharged. The appellant considers that the noise impacts from use of the property as a single family home would not be materially different to that of the holiday let, taking into account that the property is only let as a whole unit, only to families or extended family groups, not let to stag or hen parties and that noise management would be in place.
12. Turning to the tests for conditions listed in paragraph 55 of the National Planning Policy Framework, I consider that Condition No.2 is necessary to protect the living conditions of local residents, enforceable, relevant to planning, relevant to the development, precise and reasonable in all other respects. It was prudent for the Council to issue permission on a temporary basis to allow noise levels from the use of the property as a holiday let to be monitored and to provide an information source should a further application be submitted. Monitoring the situation would have provided an indication as to whether the intended noise management measures were effective.
13. Condition No.2 complies with policy DM2 of the West Suffolk Joint Development Management Policies Document which requires that proposals for development, amongst other things, taking mitigation measures into account, should not affect the amenities of the adjacent area by reason of noise, or harm residential amenity. The condition complies with policy DM14 of the Joint Development Management Policies Document which indicates that development will not be permitted where there are likely to be unacceptable impacts on general amenity and the tranquillity of the wider rural area. It also complies with chapter 15 of the National Planning Policy Framework which seeks to ensure that development does not result in unacceptable levels of noise pollution.

Other Matters

14. Objections were raised by members of the public to the use of the access trackway by guests at the appeal building. However, the Highway Authority considered this matter and raised no objections, subject to a condition regarding bin storage and presentation.

Conclusions

15. I have taken all other matters raised into account, including the effect of condition No.2 of the planning permission on the appellant's ability to take bookings, but conclude that removing condition No.2 would have a potential harmful effect on the living conditions of neighbours in respect of noise and disturbance. For the reasons given above the appeal is dismissed.

Martin H Seddon

INSPECTOR