

West Suffolk Council Development Control Committee 7 August 2019

Planning Application DC/19/0344/FUL, Liberty House, Hepworth Road, Market Weston, Suffolk

Date Registered:	25.02.2019	Expiry Date:	08.08.2019
Case Officer:	Adam Ford	Recommendation:	Approve Application
Parish:	Market Weston	Ward:	Barningham
Proposal:	Retrospective Planning Application - Change of use from single dwelling house (use Class C3) to a holiday let property (sui generis).		
Site:	Liberty House, Hepworth Road, Market Weston		
Applicant:	Mrs Juliet Hargrave		

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

Recommendation:

It is recommended that the Committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Email: adam.ford@westsuffolk.gov.uk
Telephone: 01284 757353

Background:

Due to the Officer's recommendation of approve conflicting with the objection submitted by the Parish Council, this application was presented to the Delegation Panel on the 2nd July 2019, with the Ward Member, Cllr Carol Bull also present.

Due to the public interest in the application, members resolved that this application should be presented to the Development Control Committee with a site visit to take place on 5th August 2019 prior to the Committee meeting.

Proposal:

1. Following a planning enforcement investigation, the application which is before members seeks retrospective planning permission to change the use of an existing dwelling, known as Liberty House, from a residential use (C3) to that of a holiday let property (sui generis).
2. The 8 bedroomed property can be booked throughout the year and save for sporadic periods when the applicant may wish to use the property for personal holiday purposes, there are no periods in which the property is 'off-line'. No other external operational development or alterations to the property are proposed. The application under determination only proposes a change in the property's use.
3. Liberty House is a large dwelling set within a very spacious and generous plot of approximately 3 acres. The property has 8 bedrooms across the ground floor, first floor and the attic. Vehicular access is achieved via an unmade lane onto Hepworth Road.
4. As a holiday let, the property is only available as a whole unit and the application does not seek a mixed use. Therefore, in the event that planning permission is granted, a position in which residential use takes place alongside holiday lets is not envisaged.

Application Supporting Material:

5. In support of the application, the applicant initially provided the following:
 - Planning statement
 - Site location plan (amended)
 - Floor plans
6. However, as the application progressed, to address concerns raised by those objecting to the proposal, additional information has been provided, albeit **not** formally requested by the Local Planning Authority. The additional information provided is as follows:
 - Highway / traffic report
 - Acoustic / noise report
7. All of the above documents can be seen on the Council's website.

Site Details:

8. Liberty House is an existing 8 bedroomed residential dwelling set within approximately 3 acres of associated amenity grounds and gardens.
9. Due to its location outside of the Market Weston settlement boundaries, the property technically lies within the open countryside from a land use perspective, as do a number of other residential properties in the vicinity.
10. Undeveloped, open countryside lies to the North, West and South of the application property with fields and open space also located to the East. Off-site dwellings which could reasonably be described as neighbouring properties, noting the generous degrees of separation, are located to the North, East and South East of the application site.
11. To appreciate the spacious nature of the locality, Members are invited to look at the submitted site location plan.

Planning History:

Reference	Proposal	Status	Decision Date
DC/16/1930/HH	Householder Planning Application - Single storey extension to south east elevation (following demolition of existing conservatory)	Application Granted	04.11.2016
E/95/1042/P	Planning Application - Erection of single storey wood store to south west elevation of barn as supported by letter dated 17th February 1995 providing further details	Application Granted	03.02.1997
E/93/1697/P	Planning Application - Erection of two storey side extension and conservatory, detached double garage and workshop, and detached workshop, store and vehicle shed as amended by plan received 16th June 1993	Application Granted	07.07.1993
E/88/2885/P	Erection of detached dwelling house	Application Refused	16.08.1988

Consultations:

SCC Highway Authority

- The Suffolk County Council Highway Authority have (intentionally) responded to this application twice.
- In response to the initially submitted plans, the Highway Authority, in their consultation response dated 5th April 2019, raised no objection subject to a condition being imposed relating to the bin storage and presentation area. No further information was requested by the Highway Authority.
- However, the applicant voluntarily submitted a Highways Report prepared by Strategic Land Solutions. On the 7th June 2019, the Highway Authority confirmed that they have no comments or objections to make in response to this report.

Public Health and Housing

- Public Health and Housing have (intentionally) responded to this application twice also.
- In response to an informal number of tests carried out at the property, and explained to Public Health and Housing, the first set of comments from the LPA's Senior Public Health and Housing Officer are as follows:
- The 'assessment' is all very good in attempting to replicate the occupation of the property by 'reasonable' people who want to enjoy the quiet surroundings that I believe that Liberty House provides. Unfortunately not all people that hire the property may fall in to this category and knowing that they will only be there on the single occasion some will choose to either play amplified music externally way above the '*average music levels of 80dB(A) were played*' as demonstrated in the test, and may communicate with each other whilst on the patio area way above the level also used in the conversational test as well, possibly at the same time.
- The only certainty that can be taken from the assessment is the background levels for this area, and as you can see during the night time this is very low as it is in a rural area with little background traffic or any other noise sources. Should permission be granted it is possible that the above scenarios may be played out and complaints will be received by our service of amplified music from the address.
- Whilst we would look to take formal action we would need evidence and a member of the team would have to witness such occurrences in order to take formal action. This is unlikely to happen every week, and may not happen for several weeks or even months therefore unlikely to be determined a Statutory Nuisance where we can serve a formal Notice.
- The behaviour of those that rent is more likely to be governed by the level of deposit they pay, i.e. you would be well advised to request a high deposit which is returned following the rental period and no damage or complaints are made, however this is not a condition I feel we are able to recommend as a planning condition. There are a number of holiday lets throughout the district and it is unusual to receive complaints from

neighbours regarding the behaviour of those that rent them, and so I cannot see why this one would be any different, therefore Public Health and Housing would not object to the application.

Following these comments, the applicant voluntarily submitted a noise assessment and noise management plan. Due to the technical nature of such documents, formal comments from Public Health and Housing (dated 18th June 2019) were sought and are as follows:

- Although it is difficult to identify the level of sound individuals and groups may make vocally during a stay at the premises I agree with the methodology used by the consultant, Adrian James Acoustics Ltd, to estimate the music noise levels likely to be experienced at nearby residential properties when the sound equipment available at the premises is used at the maximum level it can be.
- It should be noted though that music noise levels experienced at distances away from the noise source can also be affected by varying atmospheric factors and changes in other external noise sources. Notwithstanding such variations I consider the report fairly assesses likely noise levels when music is played at the maximum level with living room windows open and closed, and conclude that such levels are unlikely to have an adverse impact on amenity and would not be actionable under statutory nuisance legislation. That is not to say that on occasion there may be some music audible at various locations around the site.
- The issue of people noise is more difficult to quantify however the measures being proposed to control this via a noise management plan are considered acceptable. Preventing people from using their own music equipment at the property and installing a noise limiting/warning device in the living room that warns persons that music noise levels are reaching the maximum particularly after 2200 hours, are considered important. The fact that the owners can see a record of noise levels internally throughout the period will be key in managing this aspect of control over occupiers.
- Requirements to reduce noisier external activity after 2200 hours would help to reduce people noise impacts but controlling this may prove more challenging. It is not clear how the owners will in practice prevent, for example, loud voices or use of the hot tub after 2200 hours. This is something for them to properly monitor and enforce. I agree with the proposals to adopt a complaint reporting scheme but do not consider that they should be asking residents to report these to the Council out of hours. We do not operate an emergency out of hour's service but of course will investigate any noise complaints received as part of our normal procedures. It is incumbent on the operators of this facility to have in place a means by which they can address any concerns raised by residents directly, with records kept for viewing by the Local Authority if required.
- I would suggest conditions are placed on any permission that requires the applicant to adopt the measures they have proposed. I also note that there have been concerns raised about the level of intrusive lighting at this site. A condition requiring lighting proposals to be submitted and approved by the Local Authority prior to installation would be required as light pollution in such a rural area, especially if they operate throughout the

night as suggested, could have an adverse effect on residential amenity without proper controls.

Environment Team

- In their formal response to the application dated 9th April 2019, the Council's Environment team have confirmed that they have no comments to make with respect to air quality or land contamination.

Representations:

Parish Council

- The Parish Council object to the proposal and quote that 21 local residents attended the Parish Council meeting on 25th March 2019. The main issues raised are noise and traffic concerns.

Ward Member – Cllr Bull

- I would like this to go to Delegation Panel and possibly even committee, but appreciate this is for the panel to decide, because of all the enforcement and other matters etc. that surround this.

Public comments

12. In response to this application, 23 public comments have been submitted to the Local Planning Authority. Whilst all 23 representations can be seen on the website and read verbatim, they can be broadly summarised as follows:

Public comments in favour of the application

13. Three comments in support of the application which cite the following factors have been submitted:

- Economic support for small business;
- Lack of adverse impact;
- Wider tourism benefits.

Public comments not in favour of the application

14. In total, twenty comments objecting to the application, which cite the following factors, have been submitted:

- Holiday let generates too much noise which is detrimental to amenity
- Noise and disturbance at unsociable hours
- Proposed use is inappropriate for locality
- The application is disingenuous as the intended use is for parties
- Guests who use the property are not considerate to residents or road users
- Proposed use creates additional traffic and poses a risk to highway safety
- The proposed use startles and unsettles nearby livestock
- Inaccurate information submitted in support of the application

- Guests unfamiliar with the area trespass on land they are not familiar with
- Previous refusals for planning permission should be upheld
- The proposal fails to meet relevant planning policy requirements

Planning Policy:

15. On 1 April 2019 Forest Heath District Council merged with St Edmundsbury Borough Council to become a single Authority, West Suffolk Council. The development plans for the merged local planning authorities were carried forward to the new Council by Regulation. The Development Plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies document (which had been adopted by both Councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.

16. The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy 2010 & Rural Vision 2031 have been taken into account in the consideration of this application:

SEBC Core Strategy 2010

- Core Strategy Policy CS2 - Sustainable Development
- Core Strategy Policy CS3 - Design and Local Distinctiveness
- Core Strategy Policy CS4 - Settlement Hierarchy and Identity
- Core Strategy Policy CS9 - Employment and the local economy
- Core Strategy Policy CS13 - Rural Areas

Rural Vision 2031

- Vision Policy RV1 - Presumption in favour of Sustainable Development
- Vision Policy RV3 - Housing settlement boundaries

Joint Development Management Policies Document 2015

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM5 Development in the Countryside
- Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity
- Policy DM33 Re-Use or Replacement of Buildings in the Countryside
- Policy DM34 Tourism Development

- Policy DM46 Parking Standards

Other Planning Policy:

National Planning Policy Framework (2019)

17. The NPPF was revised in February 2019 and is a material consideration in decision making from the day of its publication.
18. Paragraph 213 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given.
19. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2019 NPPF that full weight can be attached to them in the decision making process.

Officer Comment:

The issues to be considered in the determination of the application are:

Part A: Preliminary matter

- The need for planning permission

Part B: Material Planning Considerations

- The principle of Development
- Impact on residential amenity
- Highway and traffic implications
- Biodiversity considerations

Part A:

The need for planning permission

20. As confirmed at the beginning of this report, this application has been submitted in an attempt to regularise a change of the property's use from a residential dwelling (C3) to that of a holiday let property (sui generis). It is however noted that the submitted planning statement suggests that the applicant does not believe planning permission is required. As such, the LPA wish to confirm why a material change in the use of the property is judged to have taken place so as to require a change of use application.
21. With the upsurge in popularity of the Air B and B business model, it is not uncommon in popular tourist destinations for properties which are classified as C3 dwellings to offer overnight sleeping facilities for tourists and visitors.
22. Typically, when local planning authorities (LPAs) want to permit a dwelling for a purely holiday use, the planning permission will be for a C3 use, but

with suitable conditions to restrict occupation. Restrictive words in the description of the development permitted e.g. 'holiday home' are unlikely to be sufficient to limit the lawful use in the absence of occupancy conditions, and in those cases the LPA may well be unable to refuse to grant a certificate of lawfulness for a wider C3 use. However in some cases a holiday or leisure use in a dwelling originally permitted under C3 can amount to a material change of use as in *Moore -v-SSCLG and Suffolk Coastal DC [2013] JPL 192*. Whether or not a material change has taken place is an assessment which must be made on a case by case basis with a range of pertinent planning factors considered.

23. In the *Suffolk Coastal* case referred to above, Lord Justice Sullivan warned against two extreme points of view which are equally wrong in law; that any holiday or commercial letting will inevitably and always lead to a material change of use, and the opposite that such a use can never in any circumstances amount to a material change of use. Generally speaking, with this as a framing context, Holiday and commercial leisure uses of dwelling houses can be put into a spectrum with the *Suffolk Coastal* case near to one end of it: at the other end would be 'second homes' which are mostly used by their owners, perhaps most weekends in spring and summer and sometimes for longer.
24. Some properties are put to (or certainly have the potential) a commercial use all year round and might be owned by a company that exists for that purpose, being advertised and having many different and unconnected, transient occupants. In between this category and the aforementioned second home there is a common middle category where the property is to a large degree used by its owner and their extended family and friends but commercially exploited when not so required.
25. In terms of what factors the LPA should consider to establish whether or not a material change of use has taken place, and thus an application for planning permission is needed, the Inspector appointed to deal with the appeal set out some useful parameters:
 - a) *the pattern of arrivals and departures with associated traffic movements;*
 - b) *the unlikelihood of occupation by family or household groups;*
 - c) *the numbers of people constituting the visiting groups on many occasions;*
 - d) *the likely frequency of party type activities;*
 - e) *the potential lack of consideration to occupiers.*
26. On this basis, and with direct reference to Liberty House, given the scale of the property (8 bedrooms), the lack of any C3 residential occupation, the large groups that Liberty House can cater for and the type of behaviour and activities which can be reasonably anticipated (notwithstanding vetting procedures by the applicant) to take place from within a holiday let, it is the LPA's assertion that in this instance a material change in the use of the property *has* taken place for which planning permission is required.

Part B: Material Planning Considerations

The principle of Development

27. The application site is located outside any of the LPA's defined settlements and as such, the proposal comprises development in the countryside from a land use perspective.
28. From a national policy perspective, the revised NPPF is clear, at paragraph 83 that LPAs should seek to support, subject to material planning considerations, applications which propose sustainable rural tourism – as would be the case here.
29. Proposals for new development and changes of use outside of the LPA's defined settlements must however be considered carefully as it is incumbent upon the LPA to ensure areas which are designated as countryside are protected from unsustainable and inappropriate development. Accordingly, where material planning considerations indicate that proposals in the countryside are unacceptable, they should be resisted.
30. National and local policies therefore broadly aim to direct development to locations which are both sustainable and will not result in the loss of unspoiled rural landscapes.
31. In this instance, whilst the countryside location of the site is duly noted, policy CS9 of the SEBC Core Strategy Document supports rural tourism facilities whilst policy DM5 of the Joint Development Management Policies Document provides that proposals for new buildings (and changes of use) related to new tourism facilities, and which preserve the openness of the countryside, will also generally be supported. The proposal in question does not seek to erect any additional buildings or built development and it therefore does not prejudice the openness of the rural locality. It should also be noted that although the application site lies outside any of the LPA's defined settlement boundaries, the site is not within the open countryside as intended by DM5. The property is an existing residential dwelling set within landscaped gardens and it does not therefore represent the open sprawling countryside that DM5 strives to preserve.
32. In addition, and notwithstanding the above, DM5 further provides that proposals for economic growth and expansion of all types of business (such as Liberty House) which recognise the intrinsic character and beauty of the countryside will be permitted if the proposal:
 - does not result in a loss of best and most versatile agricultural land
 - there will be no significant detrimental impact on the historic environment, landscape, ecology or highway network
33. The proposal is able to demonstrate compliance with the above points owing to the lack of built development arising and the lack of identified adverse impacts on the local landscape or the highway network.
34. Overall, given the national and local policy position, there is a general degree of support for rural enterprises which deliver sustainable tourist

based development and do not unjustifiably or irrevocably erode existing amenity or character. By its very nature, the use for a holiday let is an end use which preserves the openness of the semi-rural landscape as required by DM5.

35. Paragraph 83 of the NPPF and policy DM5 are broad in their remit however and in this instance, the proposal must be considered in detail against DM33 (Re-use of buildings in the countryside) and DM34 (Tourist Development) with respect to its wider impact and relationship with the existing locality. Both of these policies provide a presumption in favour of the proposed development and offer support to the intended use as a holiday let.

36. Therefore, given the site's context, subject to compliance with policies DM33 and DM34, the principle of development in this location is something that the LPA are able to support.

Degree of compliance with policies DM33 (Re-use of buildings in the countryside) and DM34 (Tourist Development).

Policy DM33: Re-use of buildings in the Countryside.

37. With the principle of development established as being something that the LPA can support, the proposal must next be considered against policies DM33 and DM34 as noted above.

38. Although the site does not sit within the open sprawling countryside as DM5 intends, Liberty House remains outside any of the defined settlements and the proposed use therefore represents the re-use of an existing building in the countryside.

39. Policy DM33 provides that the re-use, conversion and alteration or extension of buildings in the countryside for tourist accommodation will be permitted, provided such proposals comply with other relevant planning policies which comprise the LPA's Development Plan. In this instance, the most notable and relevant policies with respect to Liberty House are DM2, DM5, DM33, DM34 and DM46.

40. In addition to other policies in the Plan, DM33 outlines that proposals for the re-use, conversion and alteration or extension of buildings must also satisfy the following criteria:

A. the building is structurally sound and capable of conversion without the need for significant extension or alteration or reconstruction;

B. any proposed alterations to the building, its proposed use, its associated operational area, the provision of any services, and/or any amenity space or outbuildings, would not harm its appearance or adversely affect the setting of the building in the rural locality;

C. the nature and intensity of the proposed use would be compatible with its rural location. Proposals for employment uses will be required to provide a sustainability assessment (which may include

a Travel Plan designed to maximise the opportunities to reduce the need to travel by private car);

D. proposals which would be likely to create a significant number of jobs should be well located in relation to towns and villages or be reasonably accessible by public transport;

E. in the case of tourist accommodation there is no creation or installation of private curtilages and domestic paraphernalia which would have a harmful effect on the character of the site or the surrounding area;

F. it will not lead to unacceptable levels or types of traffic or problems of road safety or amenity and will not require highway improvements which will harm the character of rural roads in the area

41. With respect to the above criterion, as set out by policy DM33, the application under consideration is able to demonstrate clear and adequate compliance so as to enable the LPA to deem the policy as being satisfied. Given that the proposal only seeks a change of use, point A is not relevant and the proposed use for holiday lets does not result in visual harm or affect the prevailing semi-rural setting of the property or wider locality.

42. Insofar as point C is concerned, the nature and intensity of the proposed holiday let use is considered appropriate for the locality. The property is an 8 bedroomed dwelling and given the scale and spacious setting of the plot and wider area, the use does not give rise to a use which is incompatible with the site. The setting of the dwelling is not compromised as a result of the property being used for holiday lets and given that a large dwelling such as Liberty House would likely have multiple vehicle movements per day, the activity associated with the intended holiday let does not represent a level of activity which the LPA consider unacceptable or inappropriate for the locality.

43. Furthermore, and with reference to point E, there is, as a result of this application, no creation or installation of private curtilages and domestic paraphernalia which would have a harmful effect on the character of the site or the surrounding area.

44. The final relevant section of the policy, being point F, relates to the highway implications of the proposal and as will be discussed in the Highway section of this report, no adverse impact with respect to the operation of the existing Highway network has been identified.

Policy DM34: Tourism Development

45. With tourism becoming an increasingly important element of the economy, in conjunction with paragraph 83 of the NPPF, policy DM34 of the Joint Development Management Policies Document aims to ensure that proposals for tourist based development are appropriate and well considered for the locality within which it will be based. With Liberty House functioning as a Holiday Let, the provisions set out within DM34 are therefore relevant to the proposal under consideration.

46. However, in considering DM34, it should be remembered that this policy relates to “*new tourism facilities*” and as such, the wording of the policy is generally geared towards those proposals which seek to create new buildings or tourism complexes, and in particular those at the more intensive end of the spectrum. It remains relevant to the Liberty House application nonetheless as the underlying principles remain the same.

47. Policy DM34 provides that planning applications for new tourism facilities, or improvements and extension to existing facilities, will be permitted provided that:

- A. *the proposals are connected to and associated with existing facilities or located at a site that relates well to the main urban areas and defined settlements in the area and can be made readily accessible to adequate public transport, cycling and walking links for the benefit of non-car users;*
- B. *it would not adversely effect the character, appearance or amenities of the area and the design is of a standard acceptable to the Local Planning Authority;*
- C. *vehicle access and on-site vehicle parking would be provided to an appropriate standard.*

48. In addition to the above, proposals for tourist accommodation in rural areas must also seek to support the existing local community services and facilities, and:

- D. *have no significant adverse impact on nature conservation, biodiversity or geodiversity interests, or upon the character or appearance of the landscape and countryside;*
- E. *be of an appropriate scale for their context and/or comprise the conversion of suitable existing rural buildings or limited extension to existing visitor accommodation.*

49. Liberty House is an existing dwelling which sits outside any of the defined settlement boundaries and the locality does not benefit from a large range of facilities, as those in a key service centre would, which the property could benefit from. However, it relates to the area’s fragmented settlement boundaries well by not proposing additional intrusive development which would be discordant and out of keeping with the wider character of the area. In addition, although the locality benefits from few amenities and services, it is possible to walk the 0.5m route from the property to the local public house (the Mill Inn) on footpaths and wide verges.

50. The amenity impacts of the development proposal will be considered in detail below but for the purposes of this section, whilst the public concerns are noted, given the degree of policy support afforded to this proposal, the change of use is not judged to give rise to such an adverse impact on amenity that the LPA wish to recommend the application for refusal. The site is large and spacious with very generous distances and extensive screening between it and off-site dwellings; the proposed

change of use to a holiday let, noting the controls with respect to bookings which exist outside the scope of this application, is not therefore deemed to be something which adversely impacts residential amenity to such an extent that the proposal should be refused.

51. Point D of policy DM34 refers to the need to preserve local biodiversity. This is again discussed at the relevant juncture below in greater detail but it should be clarified here too. The proposal relates to an existing dwelling and proposes no additional building or operational development. As such, given the lawful use of the site for purposes which are directly incidental to the enjoyment of the dwelling, such as playing sport, hosting outside gatherings and general socialising, a materially adverse impact on the local biodiversity credentials, above and beyond that which might naturally occur as a result of a large dwelling being occupied at full capacity in the countryside, has not been identified. A substantial conflict with this element of the policy is not therefore judged to arise and full ecology survey has not been requested.

Impact on residential amenity

52. The preceding sections of this report have exhibited the extent to which the LPA are able to support the principle of development with respect to the proposed holiday let use.
53. However, despite this degree of support and the subsequent weight to be attached by the LPA in the overall planning balance, policies DM5, DM33 and DM34 (in conjunction with DM2) state that amenity should not be materially and adversely impacted by any such proposal.
54. Policy DM2 of the Joint Development Management Policies Document is clear in that proposals for all development (including changes of use) should, taking mitigation measures into account, adversely impact the amenities of adjacent areas by reason of noise, smell, vibration, overlooking, overshadowing, loss of light, volume or type of vehicular activity generated. This extends to residential amenity.
55. As this application seeks only to change the use of Liberty House, there are limited opportunities for a materially adverse impact (upon residential amenity) to arise. However, it is duly noted by the LPA that a large number of public objections have been submitted which suggest that the use of the property for holiday lettings has resulted in noise disturbances to nearby dwellings.
56. Whilst these concerns with respect to noise are acknowledged, given the site's context and the degree of separation between Liberty House and the off-site dwellings, the proposal is not judged to give rise to such severe amenity impacts that it should be refused. This is not to say that the occupants and guests of Liberty House will never be audible – such a postulation would be remiss given the low background noise levels of the locality – but in order for the LPA to recommend refusal of the application, the use itself would need to give rise to activities and noise which generate unrelenting, irrevocable harm to the area's amenity.
57. In reaching this conclusion, formal comments from the LPA's Public Health and Housing Officers have been sought and these are reproduced within

the consultations section of this report. As can be seen, in response to the application the initial comments from Public Health and Housing confirmed that they wished to raise no objection to the proposal as they note that should noise disturbances arise, this is something they are able to pursue as a potential statutory noise nuisance.

58. In addition to these comments, the first set of comments from the Public Health and Housing team confirm that it would not be possible to impose suitable conditions in this instance to control a hypothetical noise source. This is something that the LPA would concur with having regard to the tests for planning conditions as set out by paragraph 55 of the National Planning Policy Framework. For completeness, this sets out that conditions on planning permission must be:

1. necessary
2. relevant to planning
3. to the development to be permitted
4. enforceable
5. precise
6. reasonable in all other respects

59. However, despite raising no formal objection to the proposal, the Public Health and Housing Officer does note that the informal noise tests carried out by the applicant *"is all very good in attempting to replicate the occupation of the property by 'reasonable' people who want to enjoy the quiet surroundings that I believe that Liberty House provides. Unfortunately not all people that hire the property may fall in to this category and knowing that they will only be there on the single occasion some will choose to either play amplified music externally way above the 'average music levels of 80dB(A) were played' as demonstrated in the test, and may communicate with each other whilst on the patio area way above the level also used in the conversational test as well, possibly at the same time"*.

60. This is of course a valid point and the LPA would accept that there may, on occasion, be times at which there is audible emanation from within Liberty House; but this is true of most development proposals and it is not sufficient to recommend an application be refused based on the hypothetical eventuality that noise may be created to the detriment of the locality.

61. It is also noted that those wishing to book Liberty House must offer a deposit and bookings are made through an online agency and at the time of booking, the website makes it abundantly clear that the property is **not** suitable for stags, hens, weddings or corporate events. This helps to ensure the 'type' of booking is less likely to give rise to louder, more excitable activities as are potentially more common with such groups. However, as laudable as this is, the LPA cannot condition or dictate which type of clientele are allowed to book the property. The applicant has noted that this policy was not in place at the beginning of the venture and it is therefore likely that a number of the objections relating to the noise are driven by this initial period of a less stringent booking and vetting process.

62. It is further noted, within the objections, which raise noise as a concern that Liberty House is a 'Party House'. Whilst these concerns are perhaps understood given the lack of a strict booking policy during the initial set up phase, it would be the LPA's assertion that the property is not designed nor set up to be used as a large scale 'party' venue in the way that some of the public objections imply. The property is internally finished and furnished in the way akin to that of a contemporary dwelling and the LPA's own site visits have not given rise to any suspicion, given the interior décor and presentation that Liberty House is anything other than a holiday let property.

63. The noise concerns as raised by those objecting to the proposal remain relevant however, although when the separation distances between Liberty House and the off-site dwellings are considered, the LPA are unable to substantiate a claim that the proposed use would have such an adverse impact on residential amenity that it should be refused. The below table illustrates the separation distances between Liberty House and other (not all) properties in the vicinity.

64. The quoted figures below are based on measuring the centre point of Liberty house to the centre point of the tabled properties.

Property Name	Distance from Liberty House	Comments
Stone Cottage	113m	Objection based on noise impacts
Rose Cottage	140m	No comments submitted
Hartmoor	147m	Objection due to fire risk
Three Waters	150m	Objection based on noise impacts
2 New Common Road	160m	Objection based on highway impacts
Lodge Farm	333m	Objection based on noise impacts
Swiss Cottage	1900m	Objection based on noise impacts

65. In light of the above, whilst the objections from residents are noted, the LPA are unable to recommend that application be refused. The property does not share intimate boundaries with off-site dwellings and ample screening and vegetation exists between the host property and off-site dwellings to ensure residential amenity is not so unduly threatened that the LPA can justify recommending the application be refused.

66. However, due to the number of noise based objections submitted, the applicant voluntarily submitted an acoustic report in support of the application. Although this report was not required or requested by the LPA, Public Health and Housing have reviewed its content and have confirmed that *"the report fairly assesses likely noise levels when music is played at the maximum level with living room windows open and closed, and conclude that such levels are unlikely to have an adverse impact on amenity and would not be actionable under statutory nuisance legislation. That is not to say that on occasion there may be some music audible at various locations around the site."*

67. The suggestion that the LPA condition the noise management plan is duly noted but with regard to the 6 tests for planning conditions as set out earlier in this report, it would not be possible to impose such controls. A

condition which requires the installation of a noise management system which notifies the owner if a set limit is breached is not reasonable, necessary nor enforceable. Such a condition would not be necessary on the basis the development would still be acceptable without the condition, given the site context, spacing and separation distances. The condition would fail the reasonableness test as it would place unjustifiable and disproportionate burdens on an applicant through the need to continually have access to the generated data and potentially take intervening action should the system indicate the noise levels have exceeded a particular level.

68. Finally, it would be impractical to enforce such a condition as it would be impossible to detect whether the condition had been breached and enforcement action would not result in a remedial solution due to the transient nature of the clientele using the property. Furthermore, reliance upon such a condition assumes that it is required to mitigate an identified source of harm and this is not the case as the LPA do not concur that the use of the property for holiday lets results in a position whereby a material, significant adverse impact on amenity is likely to arise.
69. Notwithstanding points made in paragraphs 69 and 70, it is understood by the LPA that the owner has already made significant amendments to the way in which bookings are made and managed so as to ensure unacceptable noise impacts do not arise. A noise monitoring system, which displays real time noise levels being generated by guests has been installed. If the noise level generated exceeds a pre-defined set level of 85 decibels – which Public Health and Housing confirm is a reasonable and appropriate level in this instance - the applicant / owner is notified who is then able to make contact with the guests directly. Failure to then reduce the noise as *may* have triggered the alert system, is then subject to the potential loss of a £1000 deposit that shall have been made prior to booking. Whilst the LPA cannot impose such controls through the use of a planning condition, this approach could act as a useful measure between the owner and their guests that the LPA would welcome but do not deem essential to the granting of the permission.
70. In this instance, the control of potential and sporadic noise emanating from the property, given the human element of the proposal is something which is more appropriately addressed, should it be necessary, under the Environmental Protection Act 1990.
71. The Environmental Protection Act 1990 places a duty on the local authority to investigate complaints of noise nuisance made by a person living within its area. Where the local authority is satisfied that a statutory nuisance exists or is likely to occur or recur it must serve an abatement notice requiring abatement of the nuisance. The Act does not define nuisance. The law only requires the investigating officer to be of the opinion that the effect of the noise on the average reasonable person would cause a nuisance or be prejudicial to health, e.g. preventing restful sleep. There is no set level above which an intrusive noise may be considered a statutory nuisance and each case must be considered on its merits. Matters to be considered include the level of the noise, its character, frequency of occurrence, time of occurrence and duration.

72. In addition to the noise concerns raised in numerous objections and discussed above, the most recent consultation response from Public Health and Housing recommends a condition be imposed which restricts the installation of external lighting. Whilst the LPA fully note that the installation of poorly designed and inconsiderately positioned lighting can be detrimental to amenity, in this instance given the generous stand-off distances between properties and the abundance of existing vegetative screening, a restrictive condition in this regard is not judged to be required.

Highway and traffic implications

73. This application represents a change in the use of an existing property and as such, formal comments from Suffolk County Council Highway Authority have been sought.

74. In addition to the noise concerns raised by multiple objectors, a second source of concern is the perceived adverse impact on the safety of the highway network.

75. A number of the submitted objections refer to road users not being familiar with the road network and driving at inappropriate speeds. In support of this, a privately appointed Highway assessment, authored by GHBullard & Associates LLP has been commissioned by the residents of Stone Cottage. This report concludes, with reference to paragraphs 109 and 110 of the NPPF that the proposal would result in an *"unacceptable impact on highway safety to all road users"*

76. However, whilst the private report submitted on behalf of Stone Cottage is noted, formal comments from the Suffolk County Council Highway Authority, who are a statutory consultee confirm that they have no objection to the proposal to change the use of Liberty House. No conflict with the NPPF or policy DM2, DM46 of the Joint Development has been identified by the Highway Authority.

77. For clarity, the comments made by the Highway Authority in response to this application are as follows:

- *"We assume the layout provided showing 8 bedrooms is a layout which has previously gained planning approval and as such there are no material alterations which would affect the highway. We do not feel the change of use from a dwelling house of this size to a holiday let will add significant traffic moments onto the highway, nor have a severe impact on the highway.*
- *We note the existing access has over 4.1m of hardened surface, and has grass verges either side. This would aid pedestrian safety and allow a refuge should pedestrians and vehicles meet. We also note this access serves two dwellings giving a low risk of pedestrians and vehicles meeting unexpectedly. We note the access has adequate visibility in both directions for the expected traffic movements."*

78. The National Planning Policy Framework outlines, at paragraph 109 that development should **only** be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual

cumulative impacts on the road network would be severe. Given that the Highway Authority have raised no such concerns, the LPA do not consider the proposal to represent a material conflict with National Policy in this regard.

79. The above comment from the Highway Authority however does rely on an assumption that Liberty House has planning permission to operate as an 8 bedroomed dwelling. However, given that the property is existing, planning permission would not have been required to add new bedrooms as such internal only alterations do not require planning permission and, in any event, the property has sufficient space as would be required by the 2015 Suffolk Parking Standards. This comment from the Highway Authority is given very limited weight in the determination of this application.

80. In addition, the Highway Authority go on to advise that a condition which requires confirmation of the bin storage and presentation area should be imposed onto any planning permission as may be issued. This information remains to be provided and as such, the following condition is recommended:

- *"Within 3 months from the date of this permission, details of the areas to be provided for the storage and presentation of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety within 2 months from the date of the details being agreed by the LPA and shall be retained thereafter for no other purpose."*

Electric Charge points for vehicles

81. Section 3.4.2 of the Suffolk Guidance for Parking provides that "Access to charging points should be made available in every residential dwelling." Policy DM2(I) and DM46 seek to ensure compliance with the parking standards and to promote more sustainable forms of transport.

82. The 2019 NPPF at paragraph 105 seeks to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles and para 110 (d) provides that 'within this context, applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.' In addition, DM14 of the Joint Development Management Planning Policies Document seeks to ensure that development proposals include measures, where relevant, to limit emissions and reduce pollution.

83. On this basis a condition will be attached to the permission to ensure an operational electric vehicle charge point is provided for the holiday let property.

Biodiversity considerations

84. As required by the National Planning Policy Framework (2019) at paragraphs 8c, 170 and 175 the LPA have a duty to consider the conservation of biodiversity and to ensure that valued landscapes or sites

of biodiversity are protected when determining planning applications. At a local level, this is exhibited through policies CS2, CS3, DM10, DM11 and DM12. Policies DM5, DM33 and DM34 also seek to ensure proposals for conversion / tourism schemes do not unduly harm local ecological credentials.

85.The National Planning Policy Framework (2019) indicates that when determining planning applications, local planning authorities must aim to conserve and enhance biodiversity and that opportunities to incorporate biodiversity in and around developments should be encouraged (Paragraph 175). This is underpinned by Paragraph 8 of the Framework, which details the three overarching objectives that the planning system should try to achieve and it is here that the Framework indicates that planning should contribute to conserving and enhancing the natural environment.

86.In this instance, the proposal is not judged to be one which has the potential to inflict harm upon local biodiversity or require further supporting information. No valuable habitats are at risk and the site is not subject to any special protection from an ecological perspective.

87.It is not anticipated that the proposal would have a harmful impact on biodiversity interests in this case. Nonetheless, noting the need to secure biodiversity enhancements in any scheme, a condition which requires the submission of basic ecological enhancement measures, for example bird boxes, bat boxes etc., is recommended.

Conclusion and planning balance:

88.Having considered the above matters, a material change in the use of Liberty House is judged to have taken place; from a C3 residential property to a sui generis holiday let property.

89.Despite being outside of the LPA's defined settlement boundaries, the principle of a holiday-let property, in this location is deemed to be acceptable and is supported by the provisions of policy CS9 of the St Edmundsbury Core Strategy and policies DM5, DM33 and DM34 of the Joint Development Management Policies Document (2015).

90.Residential amenity is not judged to be unduly or adversely impacted by the proposal and no other material factors which would require the LPA to consider the refusal of this application have been presented; no objection has been submitted by the LPA's Public Health and Housing service and as such, the proposal is not judged to conflict with policy DM2 of the Joint Development Management Policies Document (2015). In addition, the proposal has been considered against paragraph 109 of the National Planning Policy Framework (2019) and policy DM2 / DM46 of Joint Development Management Policies Document (2015) with no material conflict or severe implications with respect to highway safety identified.

91.In conclusion, the principle and detail of the development are considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

Recommendation:

It is **RECOMMENDED** that planning permission be **GRANTED** subject to the following conditions:

- 1 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

Reason: To define the scope and extent of this permission.

Reference No:	Plan Type	Date Received
20-001	Location Plan	24.04.2019
Appendix B - Floor Plan	Floor Plans	06.03.2019
302924	Planning Statement	25.02.2019

- 2 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.

Reason: 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.

- 3 Within 2 months from the date of this planning permission, a Noise Management Plan which sets out the measures that are to be taken to minimise the potential noise impacts of the development shall be submitted to and approved in writing by the LPA. Unless otherwise agreed in writing, the development shall be carried out in complete accordance with any details as shall have been approved by the LPA and the Noise Management Plan shall not be altered or amended without the prior written consent of the LPA.

A written 12 month record of all bookings (including party size and booking type) shall be maintained and made available to the LPA for inspection upon request.

Reason: 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.

- 4 Within 6 months from the date of this planning permission, the holiday let property hereby approved shall be provided with an operational electric vehicle charge point at a reasonably and practicably accessible location, with an electric supply to the charge point capable of providing a 7kW charge.

Reason: to promote and facilitate the uptake of electric vehicles on the site in order to minimise emissions and ensure no deterioration to the local air quality, in accordance with Policy DM14 of the Joint Development

Management Policies Document, paragraphs 105 and 110 of the National Planning Policy Framework paragraphs 105 and 110 and the Suffolk Parking Standards.

- 5 Within 3 months from the date of this permission, details of the areas to be provided for the storage and presentation of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be carried out in its entirety within 2 months from the date of the details being agreed by the LPA and shall be retained thereafter for no other purpose

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users

- 6 Within 3 months from the date of this permission, details of biodiversity enhancement measures to be installed at the site, including details of the timescale for installation, shall be submitted to and approved in writing by the Local Planning Authority. Any such measures as may be agreed shall be installed in accordance with the agreed timescales and thereafter retained as so installed.

Reason: To secure biodiversity enhancements commensurate with the scale of the development, in accordance with policies DM11 and DM12 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/19/0344/FUL](https://www.suffolk.gov.uk/DC/19/0344/FUL)

Case Officer: Adam Ford **Phone:** 01284 757353