
Appeal Decision

Site visit made on 21 May 2014

by Nick Moys BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 June 2014

Appeal Ref: APP/Y2620/A/14/2214049

The White Lady, Front Street, Worstead, North Walsham NR28 9RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 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 Dennis Gilligan against the decision of North Norfolk District Council.
 - The application Ref PF/13/0791, dated 26 June 2013, was refused by notice dated 3 October 2013.
 - The application sought planning permission for the conversion of outbuildings to one unit of holiday accommodation and micro-brewery with ancillary retail complying with conditions attached to planning permission Ref PF/12/1032, dated 6 December 2013.
 - The conditions in dispute are Nos 3, 4 and 5 which state that:
 - The holiday accommodation hereby permitted shall be used solely for that purpose and shall not be used as the sole or main residence of the occupiers.
 - The holiday accommodation hereby permitted shall be made available for commercial holiday letting for at least 140 days a year and no individual let shall exceed 31 days.
 - A register of lettings, occupation and advertising shall be maintained at all times and shall be made available for inspection by the local planning authority.
 - The reasons given for the conditions are:
 - For the avoidance of doubt and because the holiday accommodation is located in an area designated as Countryside in the North Norfolk Core Strategy where the Local Planning Authority would not normally permit permanent residential accommodation in accordance with Policies SS2, EC9, EC10 and EC2 of the adopted North Norfolk Core Strategy.
 - To ensure that the accommodation is restricted to holiday use only and not used as permanent residential accommodation in accordance with Policy EC9 of the adopted North Norfolk Core Strategy.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The conditions in dispute limit the use of the proposed holiday unit to holiday accommodation, require it to be made available for commercial lettings and require a register of lettings to be maintained. The appellant seeks the

removal of these conditions to enable the unit to be occupied as a permanent residential dwelling.

3. The disputed conditions relate to a planning permission granted for one unit of holiday accommodation and micro-brewery with ancillary retail¹. The appellant has indicated that he also wishes to appeal a refusal to remove similar conditions attached to an earlier permission for the conversion of adjacent outbuildings into 3 holiday units². However, only one appeal is before me, which relates to the proposed single unit of holiday accommodation, and I have made my decision on this basis.
4. I have taken into account the Government's Planning Practice Guidance, issued on 6 March 2014, in reaching my decision.

Main Issue

5. The main issue is whether the property would provide adequate living conditions for future residents in terms of noise, outdoor amenity space and odour.

Reasons

6. The appeal building forms part of a range of outbuildings adjacent to The White Lady Public House (PH), a Grade II listed building located close to the centre of the village of Worstead. The PH comprises a substantial two storey red brick building dating from the 1820s, which is set back from the road behind a gravelled forecourt used for car parking and as a sitting out area. Further parking and a large beer garden are located to the rear of the PH. A recent extension to the side of the PH accommodates a kitchen and restaurant area.
7. The appeal building is a small single storey structure, with red brick walls, a pantiled roof and two pairs of timber garage doors facing onto the PH forecourt. It is adjoined on both sides by two storey buildings: a former granary building to the west, and Church Cottage to the east, which is in separate ownership and is Grade II listed. The building backs onto the churchyard of St Mary's Church.
8. The proposed dwelling would have a single aspect facing towards the PH forecourt, with a bedroom and living room located at the front of the building. At its closest point, the proposed dwelling would be located around 10 metres from the PH, and would be separated from its forecourt only by a small amenity area some 3.5 metres deep and enclosed by wooden palings. In this situation, and in the absence of substantial screening, noise from general comings and goings to the PH and the manoeuvring of vehicles would, in my view, be likely to cause significant disturbance to future occupants of the proposed dwelling, particularly during the evening hours when residents could reasonably expect a quieter environment. During the summer months, when windows in both the proposed dwelling and the PH would be more likely to be open, disturbance would also be caused by noise from within the PH itself and from the use of the outdoor sitting area at the front.
9. The proposed dwelling would also lack any private outdoor space as the proposed amenity area in front of the building would be enclosed only by

¹ Planning permission reference PF/12/1032.

² Planning permission reference PF/11/1278.

wooden palings and could be directly overlooked from the forecourt of the PH. The provision of more substantial and taller screening would not offer a practical remedy to this shortcoming as this would unacceptably restrict the outlook from the dwelling.

10. The Council has also expressed concern that the living conditions of future residents would be adversely by odour from the PH, particularly in the light of complaints received about the operation of the kitchen extraction system. However, the appellant says that the present extraction system is incomplete and that discussions are on-going with the Council about an amended design. For its part, the Council says that it is hopeful that the installation of filtration and the extension of the flue will resolve current odour issues. Planning conditions attached to the permission granted for the restaurant/kitchen extension require measures to control odour and noise from the extraction system to be agreed with the Council and implemented. It is reasonable to assume therefore that recent problems are capable of satisfactory resolution; and on this basis, I consider that the future occupants of the proposed dwelling would not be unduly affected by odour from the PH.
11. I note that the appellant states that he has received no noise related complaints, nor been made aware of any by others, during the last 3 years, despite the proximity of the PH to housing and its frequent use for functions and events. However, both the Council and Parish Council say that noise related complaints have been received by them. Whilst I acknowledge that the PH is close to housing, of the neighbouring properties only Church Cottage faces directly onto its forecourt, and is itself further away from the PH than the proposed dwelling, partly screened by boundary walling and vegetation, and has windows facing towards the churchyard as well the PH.
12. I accept that prospective residents of the proposed dwelling would be aware of the PH and thus the potential for disturbance, but I do not consider that this would itself justify approval of development that would not provide an appropriate standard of living conditions. Nor am I persuaded, on the basis of the evidence before me, that any future problems of noise could be addressed satisfactorily by other environmental or licensing controls.
13. Taking all of these matters into account, I conclude that the proposal would not provide adequate living conditions for future residents in terms of noise and private outdoor amenity space. It follows therefore that the proposal would conflict with Policy EN4 of the North Norfolk Core Strategy (2008) which seeks to ensure that new dwellings provide acceptable residential amenity for future residents. The proposal would also be inconsistent with the objective of the National Planning Policy Framework to secure a good standard of amenity for existing and future occupants of land and buildings.

Other Matters

14. The appeal building is located within the Worstead Conservation Area and both The White Lady PH and Church Cottage are listed buildings. I note however that the disputed conditions are concerned only with the nature of the occupation of approved holiday unit, and that no further alterations are proposed to the fabric of the building. New fencing is proposed to enclose the amenity space to the front of the building, but this would not extend to any significant extent into the forecourt of the PH and its alignment would follow that of the garden wall of the neighbouring Church Cottage. The proposed

residential use would also be consistent with the pattern of surrounding development. I am satisfied therefore that the proposal would preserve the character and appearance of the Conservation Area and the setting of adjacent listed buildings.

15. In addition to the matters addressed above, the Parish Council has also raised objections to the proposal in respect of overdevelopment, alterations to the building and parking provision. However, as I have decided to dismiss the appeal for the reasons set above, these matters are not determinative in this instance.

Conclusion

16. I have found that the appeal building is not suitable for permanent residential use due to its close proximity to the adjacent PH. I consider therefore that it is reasonable and necessary to retain the current limitations which restrict the use of the proposed accommodation to holiday use and prevent permanent residential occupation. Whilst I acknowledge that the proposal would add to the local housing stock, this benefit would not outweigh the harm caused by the failure of the proposal to provide adequate living conditions for future residents.
17. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Nick Moys

INSPECTOR