



Appeal Decision

Site visit made on 12 June 2018

by **Katie McDonald MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 June 2018

Appeal Ref: **APP/B3030/W/17/3184203**

Rear of Chapel Farm, Wellow NG22 0EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms Gair Kettles against Newark & Sherwood District Council.
 - The application Ref 16/01638 is dated 3 October 2017.
 - The development proposed is the erection of buildings and change of use of existing buildings to form holiday letting accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of buildings and change of use of existing buildings to form holiday letting accommodation at Rear of Chapel Farm, Wellow NG22 0EJ in accordance with the terms of the application, Ref 16/01638, dated 3 October 2017, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. Both main parties have referred to an agreed change in the description and provided written confirmation. Accordingly, I have used the amended description in my Decision.
3. The appeal is against the non-determination of the above proposal. The Council has stated that, if it had determined the planning application, it would have refused planning permission due to the increase in vehicles using the access points onto the A616 and its resultant effect upon highway safety.
4. A Unilateral Undertaking (UU), dated 10 May 2018, has been submitted and I have had regard to it in my assessment.

Main Issue

5. Based on the comments received from all parties, the main issue is the effect of the proposal upon the safety of all users of the access and the access points onto the A616.

Reasons

6. The site is to the rear of Chapel Farm and contains a number of partially constructed buildings, and one 2 storey 'L' shaped building. The proposal is for 13 holiday let units, associated communal kitchen and living areas and an office, reception and staff accommodation. There are some new buildings proposed to link up the existing partially constructed buildings. With the

- exception of the 2 storey 'L' shaped building, all of the other buildings would be of single storey appearance, with a first floor contained in the roof space.
7. The site is primarily accessed via a private track from the A616 opposite Rufford Lane. The track is surfaced with gravel and stone, and although it contained some pot holes, it was passable with a vehicle. The access opposite Rufford Lane is used to access a fishing lake, cricket pitch and other residential dwellings. There is also a small car park opposite the fishing lake. A secondary access to the site is available to the east of Eakring Road, used to access other dwellings. I understand that the appellant has a licence to operate 1 large 3 day event (Wellowfest) and 5 other large events close to the site, using the same access points.
 8. The proposal would inevitably result in an increase in traffic using both access points. The exact amount of predicted traffic levels and vehicle movements is disputed by both main parties. Both main parties focus upon the access opposite Rufford Lane (the western junction). The Council state 35 extra trips per day. The appellant states 16 extra trips per day. There is also dispute over the existing number of movements associated with the dwellings only. The Council state 25 and 47 trips per day, the appellant 80 trips per day.
 9. Based upon the evidence before me, I am inclined to agree with the appellant that trips to all existing dwellings on the western junction would be around 80 per day. Therefore, if I take the mid-way point of disputed predicted trips to be around 26 trips per day, it would be reasonable to conclude that the increase in vehicle movements would be moderate at around a third.
 10. Nonetheless, an increase in vehicle movements, even if moderate, does not necessarily result in dangerous conditions. The western junction has another junction to the north. The national speed limit is in force, yet it is close to the 30mph speed limit of Wellow. Whilst there could be a number of vehicle movements undertaken in this immediate location owing to the number of accesses, the accesses for both Rufford Lane and Newark Road are wide. Furthermore, no visibility issues are raised in terms of the proposal's access, or with the other accesses. Moreover, the access is utilised by the cricket pitch, fishing lakes and events, adding additional trips to those above, with the car park being full at the time of my visit.
 11. The Council detail that there is a poor injury accident record associated with the western junction. Evidence presented from both main parties indicates 3 personal injury accidents in the latest 5 year period, with another accident as yet unrecorded. However, the accidents did not occur as a result of entering or exiting this junction and the appellant details that the daily traffic volumes on the A616 are 10,100. I also note that although requests have been made to increase the 30mph speed limit in Wellow to incorporate these junctions, the Highways Authority indicate that there is a lack of common accident features to justify further investigation. In my view, this indicates that increased use on the access point would not be dangerous.
 12. Moreover, conditions for improvements to the western junction are suggested that would result in a bound material surfaced highway for 5m long and widening and improvement of the existing dropped vehicular footway. These improvements to the access could be undertaken to ensure it is more convenient to access or egress for users of the development and existing users.

The conditions would be necessary to improve the existing highway conditions and reasonably related to the development.

13. The secondary access in Wellow village (the eastern junction) is within the 30mph speed limit zone with nearby street lights. There are brick walls to either side of the access point, such that the Council raise some concerns with regard to restricted visibility to the west. However, there is a footpath to either side of the access on the A616 and a verge and footpath either side of the access track, allowing some visibility for pedestrians. Furthermore, as it is give-way junction, it would be reasonable to assume that vehicles would be travelling slowly up to it as they would have to stop to check for traffic and pedestrians. With regard to the western visibility, as vehicles exiting the junction would be on the eastern side, they would be able to see oncoming pedestrians from the west and then edge out onto the pavement in order to look right for oncoming vehicles. Additionally, it is important to note that it is an existing access for other users. Therefore, although I acknowledge that visibility is restricted, little evidence is presented to demonstrate how an increase to the use of this access would result in adverse conditions.
14. The access points are used by a variety of other uses and improvements to the western junction are proposed to improve highway conditions. Having regard to these factors, although there would be an increase in traffic, I have little substantive evidence why the increase would be dangerous to other users of the highway. Furthermore, the A616 has large numbers of daily traffic and the additional traffic generated by this proposal deposited onto the A616 would be insignificant.
15. The Council contend that vehicles associated with the development would be unfamiliar with the area and could cause highway safety issues. However, it would be reasonable to assume that if vehicles accessing the development were unfamiliar with the area, they may be travelling slower in order to ensure that they found the site. Unfamiliarity does not automatically result in dangerous driving.
16. The appellant owns Chapel Farm, Barn 1 and its annexe; identified in blue on the site plan. These buildings are currently occupied as dwellings, but were previously used as 2 group holiday lets. The appellant argues that should planning permission not be granted for this proposal, these buildings would revert back to holiday let accommodation. Should these dwellings revert back to holiday let accommodation, the appellant contends that there would be a similar increase in traffic, comparable with the proposal. The Council argue that the traffic movements for 2 group holiday lets would be different to 13 holiday lets, even though the bedroom numbers are similar.
17. Taking the Council's view into account, the appellant indicates that the proposal would be let only for group bookings, being occupied by no more than 2 groups at any one time. The UU covenants to this. Whilst I acknowledge the UU, I have concerns how this would be realistically enforced and how it actually makes a difference to traffic movements. Thirteen holiday let units, either let as part of one group, 2 groups or individually would still create traffic movements to the site. The same could be said for the fall-back position. People staying in groups would still arrive in a number of cars, and even if some occupants shared a car, it is unlikely that they would all car share, arrive

or depart at the same time, or carry out similar movements throughout their stay.

18. Therefore, I do not find that restricting the proposal to being occupied by no more than 2 groups at any one time is necessary to make the development acceptable. Thus the UU would not meet the tests set out in paragraph 204 of the National Planning Policy Framework (the Framework) and Regulation 122 of the Community Infrastructure Levy Regulations 2010. I have not accorded the UU any weight and so it is not a reason for granting planning permission.
19. Furthermore, having regard to this fall-back position, the Council suggest a condition that would restrict the use of Chapel Farm, Barn 1 and its annexe to residential dwellings only. However, the appellant advises that this fall-back position would not be engaged unless planning permission for the proposal is refused. Whilst it may be a realistic fall-back position in comparing the changes to traffic movements, I see no reasons why it would be reasonable, necessary or directly related to the development to restrict the use of Chapel Farm, Barn 1 and its annexe to residential dwellings should planning permission be granted. Thus a condition to such effect would not comply with the tests set out in the Framework.
20. Accordingly, having considered all matters, the effect of the proposal upon the safety of all users of the access and the access points onto the A616 would be acceptable. I find compliance with Spatial Policy 7 of the Newark and Sherwood Core Strategy (2011) and Policy DM5 of the Allocations and Development Management Development Plan Document (2013). These policies require developments to provide safe and convenient accesses and be appropriate for the highway network in terms of volume and nature of traffic generated to ensure highway safety. I also find compliance with the Framework which states that decisions should take account of whether safe and suitable access to the site can be achieved for all people.

Other Matters

21. I have had specific regard to the representations from interested parties. As the proposal is for tourism accommodation, and develops an existing previously developed site, the Council raise no concerns in relation to the principle of the development. I agree. Previous uses of the site, be those authorised or unauthorised, are not part of the proposal before me and planning permission would not override any legal or private access rights.
22. I agree with the Council that an increase in vehicular traffic on the access road or noise from the proposal is unlikely to result in harm to neighbouring living conditions.
23. I saw the car park on my visit and no changes are proposed to this. As this is an existing development, an increase in parked cars from the proposal would have a very limited effect upon the wider landscape and I find no harm.
24. Although there is some uncertainty regarding the future frequency of use, little evidence has been presented to dispute the predicted employment figures.
25. The email submitted by the Wellow Residents Collective from the Senior Environmental Health Officer dealing with contaminated land and other matters is undated and the some of the contents refuted by the Council. Furthermore, within the Council's evidence, no objections are raised in relation to

contaminated land. I have no reasons to depart from the Council's professional advice.

26. Little evidence that the proposal would overload the existing foul water system is provided and I note no that there are no comments from Severn Trent Water. However, a condition requiring details of the drainage system could be imposed to ensure that the proposal can sufficiently discharge foul and surface water.

Conditions

27. The drawings are listed for certainty. The Council request the use of reclaimed materials in the building works, however, I have imposed a condition requesting the submission of samples to ensure that the external materials area satisfactory. Details of boundary treatments are also required to ensure the external appearance is satisfactory. Detailed and scaled plans and specific details of certain design elements are also required as the plans submitted; whilst acceptable to make a reasoned judgement in terms of the proposal before me, do not provide sufficient detail. Thus a condition is necessary in the interest of ensuring a high quality appearance. The existing car park to the north of the site is required to be retained in order to provide sufficient car parking for the users of the development.
28. To ensure that satisfactory account is taken of the potential archaeological interest of the site, no works shall take place in the 'hollow way'. Notwithstanding the submitted plan, a comprehensive landscaping scheme is required to be implemented in the interest of ameliorating the development. As the proposal is for tourism purposes, it is necessary to restrict it to this use and for a register of occupants to be kept.

Conclusion

29. For the reasons above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans Site plan dated 16/11/2016 (with car park); Site Plan dated 16/11/2016 (with red and blue edges); Elevation i; Elevation ii; Elevation iii; Elevation V; Elevation vi; Elevation Vii; Elevation Viii; Elevation xii; Elevation NE (Elevation xiii), Elevation xv Elevation xvi; first floor Plan workshop, Whole Site Plan Version 003, site floor Plan drawing No drawing elevation iv, x, xi; site first floor Plan drawing; and ground floor Plan drawing.
- 3) No development shall commence until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.

- 4) No development shall commence until a scheme and details of the improvements and/or widening of the existing dropped vehicular footway crossing opposite Rufford Road have been submitted to and approved by the local planning authority in writing. The agreed scheme shall be carried out before the development hereby permitted is brought into use.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) Notwithstanding the submitted details, no development shall commence until a detailed layout plan (scale 1:500), proposed floor plans and elevations (scale 1:100) have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details.
- 7) No development shall commence in respect of the features identified below until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority.
 - Design and finish of the gates, piers, iron monger and control mechanism
 - Doors
 - Windows
 - ConservatoryDevelopment shall thereafter be undertaken in accordance with the approved details.
- 8) None of the development hereby permitted shall be occupied until works for the disposal of sewage and surface water have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 9) No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the development being brought into use and shall be retained as such for the lifetime of the development.
- 10) No part of the development shall be brought into use until the access to the site opposite Rufford Road has been surfaced in a bound material for a minimum distance of 5 metres behind the highway (footway) boundary.
- 11) No works or operations shall be undertaken below ground in the area identified as the 'hollow way' as confirmed in writing by the applicant in an email submitted to the local planning authority dated 21 June 2017.
- 12) The parking area as shown on the 'site plan dated 16/11/2016' shall be retained as such for the lifetime of the development.

- 13) The premises shall be used for holiday accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 14) The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the local planning authority at any time upon written request.

*****End of Conditions*****