

Parish: Alne
Ward: Easingwold

Committee date: 17 October 2019
Officer dealing: Mr. M. Pearson

2

Target date: 21st October 2019

19/01347/FUL

**Proposed use of existing tourist accommodation as a dwelling
At Oakleigh Cottage, Oakleigh, Alne Station
For Mr & Mrs Butterworth**

This application is referred to Planning Committee at the request of a Ward Member.

1.0 SITE, CONTEXT AND PROPOSAL

1.1 Oakleigh Cottage was granted planning permission (15/00457/FUL) as holiday accommodation in 2015 and has been operating since 2016. The building is one and-a-half storeys in height constructed in brick with a pitched pantile roof. Oakleigh Cottage is located within the grounds of Oakleigh which is a two storey detached property that lies adjacent to railway line to the north of Alne. The property is set in a substantial plot and access to the site is taken directly from Station Road. Oakleigh Cottage has a defined curtilage, with a small patio to the south of the building.

1.2 Oakleigh Cottage was granted consent (15/00457/FUL) with a restrictive condition as noted below:

The occupation of the accommodation hereby approved shall be as follows: (i) the accommodation is occupied for holiday purposes only; (ii) the accommodation shall not be occupied as a person's sole, or main place of residence; (iii) the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of the holiday accommodation on the site and of their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority.

1.3 The holiday business has not developed as expected, the applicant has shown that the operation is not financially viable and therefore this application seeks to change the use of the holiday accommodation within Oakleigh Cottage to a dwelling on a permanent basis. The proposal does not involve any external alterations to the property but it would be necessary to create a defined curtilage around Oakleigh Cottage utilising the existing boundary treatment across the site to expand the current curtilage as indicated in the submitted drawings. As part of the proposal a new vehicle entrance gate is proposed along the southern boundary of Oakleigh.

1.4 The site lies outside the Development Limits of Alne, within Flood Zone 1, land at the lowest risk of flooding, and close to the railway line.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

2.1 04/00512/FUL - Alterations and extensions to existing dwelling. Approved April 2004.

2.2 15/00457/FUL - Proposed conversion of double garage into holiday accommodation. Approved June 2015.

3.0 RELEVANT PLANNING POLICIES

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP2 - Access
Core Strategy Policy CP4 - Settlement hierarchy
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Core Strategy Policy CP17 - Promoting high quality design
Development Policies DP1 - Protecting amenity
Development Policies DP9 - Development outside Development Limits
Development Policies DP30 - Protecting the character and appearance of the countryside
Development Policies DP32 - General design
Development Policies DP33 – Landscaping

4.0 CONSULTATIONS

4.1 Alne Parish Council – No response received. Expired 25th July 2019.

4.2 Environmental Health – Made the following initial observations:

Due to the close proximity to the East coast main line we have concerns about potential noise impact to both the external amenity and internal habitable rooms which may make the location unsuitable for permanent residential occupancy.

Before any decision can be made, I would recommend the applicant is requested to submit an acoustic assessment which assesses rail noise both daytime (LAeq,16h) and night-time (LAeq,8h and including LAmx levels between 23:00-07:00), in order to determine the existing noise levels and the potential impact.

Further advice can be found in the Calculation of Railway Noise (CRN) document.

This will help determine suitability of the site and what noise mitigation measures, if any should be considered. The applicant shall base the assessment on meeting amenity levels as described in the 'British standard: 2014 Guidance on sound insulation and noise reduction in buildings' as follows:

Internal noise levels to be achieved in all habitable areas attributable to external noise sources with windows shut and adequate room ventilation provided. If relying on closed windows to meet the guide values, there needs to be appropriate alternative ventilation that does not compromise the façade insulation or the resulting noise level.

35dB LAeq, 16hr 07.00 -23.00 living rooms and bedrooms
40dB LAeq, 16hr 07:00 – 23:00 Dining room /area
30dB LAeq, 8hr 23:00 – 07:00 Bedrooms
45dB LAmx, 23:00 and 07:00

Main external amenity areas / gardens. 50dB LAeq,16 hrs 07.00 -23.00

With rail noise there is also the risk of rail vibration. As a general rule of thumb, properties built within 40m of the rail tracks can be affected by vibration. I would therefore recommend that the above assessment also addresses the potential impact from vibration.

The applicant submitted an acoustic assessment and the following second EHO response was received:

This service has considered the potential impact on the proposed residential amenity.

The property is approximately 30/40 metres away from the East Coast Main Line with the associated noise from rail traffic. The applicant has identified within the design statement that the current use of a holiday let is not viable citing 'the location and resultant noise of the East Coast Main Line railway' as a contributing factor for repeat and new guest bookings.

If a planning application had originally been submitted for a permanent residence, an environmental noise assessment would have been requested. This would have categorised the main noise concerns from the location and allowed specific direction to be given about the location, design of the building, mitigation measures and building materials and a focus on protecting the external amenity. This would have ensured the property meets the required noise standards before being built. As a general rule of thumb, properties built within 40m of the rail tracks could require specialist foundations to combat the effect of vibration.

The subsequent submission of a planning application for permanent residential has bypassed this process and promotes a property of a lesser standard than what would be required for this location.

Retrospective measures can be taken to bring the property up to a standard. There are three key points that must be considered when considering impact on amenity.

1. That general noise levels within various habitable rooms are suitable for the associated use.
2. That any maximum noise levels from passing trains are reduced or limited to a particular number of activities per night
3. That the general noise levels within external amenity are suitable and designated areas are provided.

The acoustic report shows that within the front facing bedroom (measurement location 2) the required internal noise levels of 30dB (A) could be met with windows closed. In the bedroom facing the railway line (measurement position 1), internal noise levels exceed the standard with windows closed but can be met by increasing the glazing specification. The report does not take into consideration that when windows are opened for ventilation, particularly in summer months, internal noise levels would be exceeded. If relying on closed windows to meet the guide values, there needs to be appropriate alternative ventilation that ensures the same level of ventilation is achieved as from an open window, whilst protecting internal noise levels. This is particularly important due to the high number of passing trains and associated LAFmax levels of 92.5dB. (As recorded in the garden of the property.)

One of the main concerns I have about the development is the regular frequency of passing trains during the night which can cause sleep disturbance. A guideline value set by World Health Organisation (WHO) advises for the protection of sleep indoor sound pressure levels in bedrooms should not exceed approximately 45 dB LAmax fast, more than 10 – 15 times per night. Within the acoustic report page 10, table 5.2 exceedances of 45dB

occur 27 times during the night time measurement on 06/09/2019 and 20 times during the night-time measurement on 08/09/2019 which exceeds the recommended values. The recommended level (45 dB LAFmax) has been removed from the WHO standard but is still referred to within the BS 8233:2014 British standard publication. The guidance states that 'Regular individual noise events (for example, scheduled aircraft or passing trains) can cause sleep disturbance. A guideline value may be set in terms of "SEL" or "LAFmax" depending on the character and number of events per night'. I would recommend further work needs to be done to reduce these levels. This can be achieved through looking at the existing building structure, associated weak points for greatest sound transmission and improving the insulating properties of the materials used to compensate for this loss; for example the roof.

The acoustic report shows that a short-term environmental noise survey was carried out in an area of the garden close to the property. The noise levels of 48.2 LAeq, T was recorded that does not meet the required standard of 50 dB however the garden stretched to the railway edge which was not sampled and this area would be likely to exceed. As part of the application I would like to see a defined area of amenity, perhaps identified through fencing that meets the 50 dB criteria. This would preferably be to the front of the property to screen against the high max levels of 92.5dB.

The property is currently not suitable for permanent residential occupation.

Should members be minded to approve this application I would recommend that prior to the occupation of the property the applicant submits a further report to be agreed by the Local Planning Authority detailing what measures will be taken to reduce noise levels within the property in line with the recommendation above. As you will appreciate there are various ways in which this can be achieved and it is for the applicant to research various options available. Once agreed, a further acoustic report shall be submitted to the Local Planning Authority once the works have been completed, demonstrating that the required reduction has been achieved in order to discharge this condition.

Should members be minded to refuse this application I would still recommend the applicant looks to take measures as recommended which will improve the noise environment and may make the holiday let a more viable option.

4.3 Neighbour notification - Expiry date 25th July 2019. No responses received.

4.4 Site notice - Expiry date 31st July 2019. No responses received.

5.0 ANALYSIS

5.1 The main issues to consider in this proposal for a new residential dwelling are: (i) the principle of development; (ii) the impact on the character of the surrounding area (iii) design; (iv) residential amenity of both the new and existing dwellings.

Principle of development

5.2 The site falls outside the Development Limits of AIne. Policy CP4 states that all development should normally be within the Development Limits of settlements.

5.3 Policy CP4 of the Local Development Framework provides examples of exceptional cases whereby development in the open countryside may be supported. Point iv) of

Policy CP4 provides an opportunity for the re-use of existing buildings without substantial alteration or re-construction and would help to support a sustainable rural economy or help to meet a locally identified need for affordable housing.

- 5.4 Policy CP4 does offer limited support for housing in this location, however, it does not fully comply with point iv) because although it creates a dwelling by conversion it does not provide affordable housing or would help sustain the rural economy.
- 5.5 To counter this issue consideration has to be given to the business case put forward by the applicant regarding the difficulties the holiday let business has faced since it was opened in June 2016. The applicant has provided evidence of accommodation bookings, business accounts and reviews of the holiday accommodation provided by users.
- 5.6 It is clear from the business accounts that the business is struggling and this is verified in a statement by the applicants' accountants. Further evidence to confirm the issue has been submitted within the supporting statement that accompanies the application. Lettings for 2016 stood at 92 nights, 152 nights for 2017 and 63 nights for 2018. This reduction in occupancy has been evidenced through feedback responses that stated whilst quality of the accommodation was positive the resultant noise of the East Coast Main Line railway and a lack of wi-fi and mobile dongle connectivity as the primary reasons for the lack of repeat and new guest bookings. It is clear the applicants have provided good quality accommodation, good customer service, and effective marketing through leading online tourism booking portals. Unfortunately, the location of the accommodation and the infrastructure which supports and surrounds it with some adverse online reviews is rendering the business unviable.
- 5.7 On the basis of the evidence submitted the LPA considers the restrictive condition on the previous consent has effectively outlived its usefulness and therefore is of the opinion that the business case put forward provides a sufficient material consideration to accept the loss of the tourist facility.

The character of the area

- 5.8 The previously approved proposal was considered to an appropriate design response to the character of the area during the assessment of the previous application. The only physical change proposed as part of this application would be the sub-division of the plot and this is not considered significant to affect the character of the village and therefore accords with policies CP17 and DP32 of the adopted Local Development Framework.

Design

- 5.9 No alterations are proposed to the buildings. The curtilage is to be sub-divided as indicated on the submitted plans. Whilst no boundary information has been submitted as part of the application it is considered the precise details can be controlled through a suitably worded condition. It is noted that a new gated entrance to the reduced curtilage of Oakleigh is to be provided along the southern boundary adjacent to the access drive.
- 5.10 In light of the above, it is considered that the proposed development is considered to be of good design in accordance with the principles of the NPPF and the requirements of policies CP17 and DP32 of the adopted Local Development Framework.

Residential amenity

- 5.11 As noted above the application does not involve any external alterations and there is no significant overlooking between the two dwellings of Oakleigh and Oakleigh Cottage. Whilst there is scope to overlook garden areas this is not so substantial to make the development harmful to the amenity of either dwelling and on this basis it is considered the proposal satisfies policies CP1 and DP1 of the adopted Local Development Framework.
- 5.12 Environmental Health has been consulted on the application and requested that further acoustic mitigation measures and assessment be provided and approved by the Council prior to the occupation of Oakleigh Cottage. On the basis that a number of measures could be introduced to mitigate the noise concerns raised it is considered that this issue can be resolved through a suitably worded condition.

Planning Balance

- 5.13 The proposed development will result in economic activity through the occupation of the new home, and the social gains of the creation of an additional dwelling. The gains in both these aspects of 'sustainable development' are small, in this instance, the scheme is considered to be 'neutral' in respect of environmental impacts. There is no environmental harm and as a consequence the scheme is on balance found to be sustainable development in the terms of the NPPF.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:
1. The development hereby permitted shall be begun within three years of the date of this permission.
 2. The permission hereby granted shall not be undertaken other than in complete accordance with the proposed curtilage plan, the existing and proposed floors plans and elevations received by Hambleton District Council on 19th June 2019.
 3. The property shall not be occupied until all of the following three steps are satisfied:
 - a) a report is to be submitted to and approved by the Local Planning Authority detailing the measures to be taken to reduce noise levels within the property to not more than 30dB A internal (night time bedrooms) and 50dB LAFmax for designated external spaces,
 - b) the approved measure are to be implemented in accordance with the approved details
 - c) a verification report shall be submitted to the Local Planning Authority the noise levels do not exceed the standards required at a).

The reasons are:

1. To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Hambleton Development Plan Policies DP1, DP28 and CP17.

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3. To ensure any potential adverse effects of railway noise are minimised to provide a satisfactory residential environment in accordance with the Local Development Framework Policy CP1.