
Appeal Decision

Site visit made on 13 June 2017

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 13 July 2017

Appeal Ref: APP/Y2736/W/17/3167625

Blacksmiths Arms, Flaxton, York, YO60 7RJ

- 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 Mrs Claire Docwra against the decision of Ryedale District Council.
 - The application Ref 16/00963/73A, dated 25 May 2016, was refused by notice dated 21 July 2016.
 - The application sought planning permission for change of use, alteration and extension of holiday letting units to form a self-contained residential annex for use as staff accommodation without complying with a condition attached to planning permission Ref 05/00653/FUL, dated 1 August 2005.
 - The condition in dispute is no. 6 which states that: the residential annex hereby permitted shall only be used as an annex to the main property known as the Blacksmiths Arms, Flaxton, and the accommodation provided shall only be used by employees of the public house currently known as the Blacksmiths Arms, Flaxton. The property shall at no time be sold or let off separately from that public house.
 - The reason given for the condition is: the location of the building to the rear of the public house will not provide a satisfactory level of independent residential amenity, and the proposal would not meet the requirements of Policy H7 of the Ryedale Local Plan.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appellant seeks the removal of the restrictions imposed by condition no. 6 in order that the residential annex, referred to by her as the 'cottage', can be occupied independently of the Blacksmiths Arms public house. I consider that the main issue in this case is whether condition no. 6 is necessary and reasonable having regard to the living conditions of future residents of the cottage.

Reasons

3. The Blacksmiths Arms is a broadly L-shaped building, the front section of which includes the bar areas with accommodation above. A narrower rear annex, which contains, amongst other things, the associated kitchen, is situated alongside the northwestern side boundary of the site and it adjoins self-contained residential accommodation to the northeast, which is referred to by the appellant as the 'cottage' and is the subject of condition no. 6 attached to planning permission Ref. 05/00653/FUL. To the northeast of the cottage
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there is an extensive rear garden. The front section of the Blacksmiths Arms is separated from the southeastern side boundary of the site, which it shares with a neighbouring dwelling called Soy Lands, by the width of a vehicular accessway leading from the highway to an area of hardstanding in front of the rear annex and cottage. That area of hardstanding has been partially sub-divided by a timber fence line, which runs from the intersection between the rear annex and cottage part way towards the southeastern side boundary of the site, leaving sufficient gap for vehicles to reach the area of hardstanding in front of the cottage.

4. The proposed removal of condition no. 6 would remove the requirement that the cottage: is only used as an annex to the public house; is only used to accommodate employees; and, is not sold or let separately. Whilst I understand that the appellant owns the Blacksmiths Arms and lives in the cottage with her teenage son, there would then be nothing to prevent it from being occupied by residents who are not associated with the public house.
5. There is no dispute that the rear garden of the appeal property would provide adequate private amenity space for future residents of the cottage and in that regard the proposal would meet the requirements of Policy SP4 of the *Ryedale Plan-Local Plan Strategy, 2013* (LP).
6. However, a number of doorways lead from the public house directly out onto the area of hardstanding in front of its rear annex. The use of those doorways would allow noise from the bar areas to escape. Furthermore, I understand that this area of hardstanding has been used in the past as an outdoor area for customers. I consider it is foreseeable that this would also be likely in the future, not least due to the limited outdoor space at the front, between the building and the car parking spaces. This would add to the levels of noise arising from activity associated with the public house, close to the front of the cottage which contains the majority of its habitable room windows. In my judgement, noise arising, particularly late at night, from the use of that area in front of the rear annex as well as fugitive noise from the bar areas when doors are opened, which may well include sources such as amplified music, would be likely have a noticeable harmful effect on the living conditions of future residents of the cottage.
7. I conclude overall that the living conditions of future residents of the cottage who are independent of the Blacksmiths Arms would be relatively poor, with particular reference to noise and disturbance. Condition no. 6 is reasonable and necessary having regard to the living conditions of future residents of the cottage and removal of it would conflict with LP Policy SP20, which requires new development to avoid material adverse impacts on the amenity of future occupants, and *the National Planning Policy Framework* (Framework), which seeks to secure a good standard of amenity for future occupants of buildings.

Other matters

8. There is no dispute that it is commonplace to find country public houses alongside other properties. Whilst I understand that the Council's Environmental Health Officer has received complaints from residents living close to public houses in many village locations, I consider that under some circumstances such a relationship may not be problematic. For example, the residential properties to the northwest of the appeal site would be unlikely to be adversely affected by noise associated with the Blacksmiths Arms, as they

would be shielded by the appeal buildings. However, although the appellant has indicated that, in 1998, the Council granted planning permission for a dwelling alongside the beer garden of a public house in Sheriff Hutton, it appears to me that the circumstances were materially different to those in the case before me; not least as planning policy framework has changed and only a small number of the windows of that other dwelling are close to the beer garden. It is likely that the living conditions of residents of Soy Lands would be adversely affected by noise arising from the Blacksmiths Arms activity that I have referred to, as the relatively low boundary wall between the properties is unlikely to be particularly effective as a noise barrier. Nonetheless, in my view, that does not weigh significantly in favour of allowing a poor relationship between the public house and another independent dwelling, as would be likely to result from the appeal scheme.

9. Whilst I understand that a nomination proposal has been made by the Parish Council for the Blacksmiths Arms to be added to the Council's List of Community Assets, in the absence of any evidence concerning the determination of that matter, I give it no weight. However, it is clear from consultation responses to the planning application that the public house is valued by a significant number of the residents of Flaxton and I have had regard to the concern raised that the proposal may harm its viability. The appellant has been advised by a Hotel and Licensed Property Agents (HLPAs) that the separation of the cottage from the public house would not affect the viability of the business and would make the sale of the public house and its future more certain. As to the likely impact on viability, the view of HLPAs appears to me to be contrary to the site specific experience of the former owner of the Blacksmiths Arms. He indicated, in support of planning permission Ref. 05/00653/FUL, that in order to sustain the public house use, the cottage was needed to provide on-site accommodation for staff in this rural location. In the absence of any compelling evidence to show otherwise, I give greater weight to the direct experience of the former owner and I consider that the proposal may well adversely affect the future of the public house.
10. The appellant has indicated that the proposal would allow her to dispose of her interest in the Blacksmiths Arms while continuing to live, with her son, in the cottage. However, I understand that they have lived at another property in the village for a significant period of time in the past and I have not been provided with any evidence to show that other suitable accommodation in the locality is not available. Under the circumstances, I give little weight to this benefit cited by the appellant. The Highway Authority has not objected to the proposal with reference to parking or any impacts on the highway. Nonetheless, neither these, nor any other matters raised are sufficient to outweigh the considerations which have led to my conclusion on the main issue.

Conclusions

11. I conclude on balance that the removal of condition no. 6 would not amount to sustainable development under the terms of the Framework and it would conflict with the Development Plan taken as a whole. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins
INSPECTOR