

RYEDALE DISTRICT COUNCIL

Report of Head of Planning

The Town and Country Planning Act 1990

AUTHOR: Niamh Bonner

PURPOSE OF THE REPORT: To advise Members of a breach of planning control and recommend an appropriate course of action.

SITE:

The application site relates to a detached residential dwelling incorporating seven bedrooms, located along the linear Main Street of Cawton, known as St Hildas House. The site falls inside the village development limits and within the Howardian Hills Area of Outstanding Natural Beauty.

BREACH OF PLANNING CONTROL

The 'relevant activities' considered a breach of planning control comprising:-

The mixed use of the residential dwelling as a dwellinghouse and a short term holiday let.

No operational development has been undertaken

RELEVANT LEGISLATION

The Town and Country Planning Act 1990 Sections 172-190, 329

The Town and Country Planning (General Permitted Development) (England) Order 2015

The Human Rights Act 1998

The Equalities Act 2010

RELEVANT POLICY & GUIDANCE

National Planning Policy Framework (2018) specifically paragraph 58 which states "Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

Ryedale Plan- Local Plan Strategy (2013)

SP1- 'General Location of Development and Settlement Hierarchy'

SP8 – 'Tourism'

SP13 – 'Landscapes''

SP16- 'Design'

SP20 - 'Generic Development Management Issues'.

HISTORY:

The most relevant planning history is the following:

11/00453/FUL: Erection of a six bedroom dwelling with detached triple garage. Approved

14/00773/AMEND: Minor amendments to application 11/00453/FUL dated 12.07.2011. Approved

The following planning enforcement case has also been raised:

18/00032/CU: Change of use of dwelling to short term holiday lettings (Pending) This was first brought to the attention of the Council's Specialist Place Team on the 8th June 2018.

The applicant was invited to apply for the retrospective consideration of a formal change of use in relation to the unauthorised development above. The following proposed development was considered:

18/01334/FUL: Temporary change of use (2 years) from residential to mixed use as a dwellinghouse and holiday let (retrospective) (Refused: 11th March 2019)

Reasons for refusal:

1. It is not considered that the proposed continuation of the mixed use development (specifically the short term holiday let with a maximum capacity for 15 people and no on site manager) respects the character and context of the immediate locality in relation to the existing closely adjoining residential properties, in a village within the Howardian Hills Area of Outstanding Natural Beauty (AONB) with low ambient noise levels. The proposal is considered to be contrary to the requirements of Policies SP13 and SP20 of the adopted Ryedale Plan, Local Plan Strategy and objectives of the AONB Management Plan to conserve the special qualities and tranquillity of the AONB.
2. The short term holiday let use has been proven to result in significant harm to the residential amenity of the occupiers of the closely adjoining neighbouring residential properties, by virtue of unacceptable noise and disturbance. This proposal is therefore considered to be contrary to the requirements of Policy SP20 of the Ryedale Plan, Local Plan Strategy.

HISTORY AND EVIDENCE OF BREACH

Members are asked to review the submitted design and access statement, detailed representations including supporting appendices and appraisal contained within the appended delegated Officer's report for the refused application 18/01334/FUL.

The use of the dwellinghouse known as St Hildas House for a holiday use let for up to 15 people is considered to form a breach of planning control, for which planning permission would be required. The following excerpt from the appended Officer's report notes the following:

"The change of use is necessary in light of the holiday accommodation. The Town and Country Planning (Use Classes) Order 1987 indicates that a dwellinghouse falls within the use class C3. The use of the dwellinghouse for a commercial holiday let with capacity for 15 people would result in a use that is fundamentally different to how the property would be occupied by a single household.

The report by Lord Justice Sullivan on the appeal at the above referenced property St Audry's House, Melton, Woodbridge, Suffolk noted that *"I consider there are a number of distinct differences between the current use and the use of the appeal property as a family dwelling house. Notably the pattern of arrivals and departures with associated traffic movements, the numbers of people constituting the visiting groups, the likely frequency of part type activities and the potential lack of consideration for neighbours."* These are considered to be the aspects which have also resulted in the material change of use at St Hildas House."

The applicants and planning agent have accepted that a breach of planning control has been undertaken and this has not been disputed. The Design and Access Statement explains the rationale behind their letting the property out for short term holiday lets. This has resulted in harm identified in the reasons for refusal outlined above and this forms the basis for this enforcement report.

TIMELINE

- 8th June 2018 Enforcement Request for Service complaint received.
- Letter of complaint to Ryedale Council reporting alleged antisocial behaviour dated 2nd June 2018 received.
- Letter of complaint to Ryedale Council reporting alleged antisocial behaviour dated 3rd June 2018 received.
- Correspondence from and response to Ryedale Community Officer Bridget Skaife 7th June 2018 following previous reports of alleged antisocial behaviour.
- Correspondence confirming continuation of alleged antisocial behaviour dated 22nd June 2018
- Planning application reference 18/01334/FUL validated 12th December 2018.

EXPEDIENCY CONSIDERATIONS

Any enforcement action is discretionary and should only be taken where it is 'expedient' to do so.

WHY IS IT CONSIDERED EXPEDIENT TO SERVE A NOTICE?

The breach of planning control is contrary to the NPPF, and Policies SP1, SP8, SP13, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy in that the short term holiday let use results in unacceptable harm to the residential amenity of neighbouring properties in what is a small village in the Howardian Hills Area of Outstanding Natural Beauty which enjoys low ambient noise levels.

STEPS NECESSARY TO REMEDY THE BREACH

This report seeks authorisation to serve a formal enforcement notice to remedy the breach of planning control. In order to achieve compliance the necessary steps include:

1. Ceasing the use of the dwellinghouse for short term holiday let purposes.
2. Securing compliance with the planning permission granted under application reference 11/00453/FUL.

RECOMMENDED PERIOD FOR COMPLIANCE

The suggested period for compliance is 31 days in respect of an Enforcement Notice for a change of use of land. In this instance, in an email dated 21st February 2019 the Planning Agent noted "*Essentially the use as holiday cottage is now going to finish mid-July anyway. The applicants have stopped taken bookings and wish to honour the handful of remaining bookings and the use will resolve itself (I have a list of the bookings). Essentially this is now less than 5 months away.*"

A more limited timeframe than the original two year period was however never formally applied for and regardless of this, it is considered that any continuation of the use would result in harm to the amenity of neighbouring residential dwellings. It is therefore considered that the period of compliance should be 14 days from the date of decision.

Human Rights

Article 8 of the European Convention on Human Rights (HCHR) provides the citizen with:

*“.....the right to respect for his private and family life, his home and his correspondence.
There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”*

This is a qualified right. It is not considered that this right to family and private life would be impacted by the cessation of the short term holiday let use. Enforcement action will not be an interference with the land owner’s Article 8 rights and no further justification is therefore required.

RECOMMENDATION

The Council Solicitor be authorised in consultation with the Head of Planning to issue an enforcement notice pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) requiring:

1. Cessation of the use of the dwellinghouse for short term holiday let purposes.

8th March 2019



11/3/19