

Appeal made against the refusal of planning permission

Appeal reference	APP/P1805/A/11/2159048
Planning Application	10/1106-HR
Proposal	Removal of conditions 05 and 06 of planning permission 09/0690 to allow for use as dwellings
Location	Land at the rear of Pepperwood Bungalow, Wood Lane, Fairfield, Worcestershire, B61 9NE
Ward	Woodvale
Decision	Refused by Planning Committee (23rd May 2011)

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The Proposal

This appeal relates to the application (10/1106) for the removal of Conditions 5 and 6 (to allow for use of dwellings) of planning application 09/0690 which gained planning approval for a change of use to 3 holiday lets in 2009. The conditions in dispute are Nos. 5 and 6 which state that:

5. The use of the development hereby approved shall be restricted to short term holiday purposes only and shall not be occupied at any time as permanent residential accommodation.

Reason: So to ensure the proper planning of the development in accordance with PPS1: Delivering Sustainable Development.

6. A register of bookings and durations of stay at the holiday let shall be maintained at all times and shall be made available for inspection by the Local Planning Authority upon reasonable notification.

Reason: In order to ensure that the proposal is retained as a holiday let to secure the proper planning of the development in accordance with PPS1: Delivering Sustainable Development.

The application was determined by the Planning Committee on 23.05.2011 and refused for the following reasons as detailed below:

1. The very close proximity of the proposed residences and the stables is inappropriate, and would result in a strong possibility of nuisance from odour and flies from the stable affecting the residential units. The proposal would therefore be contrary to policy DS13 of the Bromsgrove District Local Plan 2004 and SPG1, PPS1, PPS23, and PPS24.

2. The submitted plan (Amended Drawing No.5, Proposed Site Plan at scale 1:500, date received 11.04.2011) illustrates a shared courtyard area which would not be suitable for the proposed residential units and would therefore be contrary to policies C27, DS2, and DS13 of the Bromsgrove District Local Plan 2004 and SPG1.
3. The proposed parking arrangement and means of access to the proposed residential units would not incorporate a safe means of access and egress to the site. The proposal is therefore contrary to policy T1 of the Worcestershire County Structure Plan 2001, policies TR11, C27, DS2, and DS13 of the Bromsgrove District Local Plan 2004 and PPG13.

The Inspector considered the main issue in this appeal is whether the use of the three converted units of accommodation within the Green Belt without compliance with Conditions (5) and (6) would be acceptable, having regard to the outside amenity space that could be provided.

Discussion

The Inspector verifies that he will be referring to drawing 05 as listed in the second reason for refusal when assessing the adequacy of the proposed outdoor garden space for the units. This drawing shows the apportionment of the space in front of the units into three separate garden areas of 100, 102 and 217 square metres respectively.

The Inspector notes that although the Local Plan policies referred to in the second refusal reason do not themselves provide any detailed requirements or standards for outdoor amenity or garden space in association with residential units, guidelines are provided on this in Section 9 of the Supplementary Planning Guidance Note 1: Residential Design Guide (SPG1), which supports the Local Plan policies.

SPG1 suggests a minimum garden length of 10.5 metres and a minimum garden area of 42 square metres for smaller units. The Inspector considers the proposed gardens would easily satisfy these standards. Nevertheless, it is noted that these standards would not offer much privacy, by virtue of their layout, degree of integration and location directly in front of the closely grouped units. The Inspector points out that there is little in Section 9 of SPG1 to suggest that where 'private' amenity space can be adequate in quantitative terms, it can still lack a high degree of privacy, therefore failing to meet the standards set out.

Reference is made to the layout and cohesion of the three converted units which, the Inspector considers, could create a degree of communality in the overall living environment, possibly making them more attractive to prospective occupants.

It is concluded that the proposed arrangements for garden or amenity space are satisfactory, and would meet the objectives of the Local Plan policies and confirm to the guidance in SPG1.

With reference to the Green Belt location, the Inspector is in agreement with the Council that the proposed residential use would not have a materially greater impact on the openness of the Green Belt than the use currently permitted.

The protection of the proposed gardens from ancillary domestic development that might spoil the enjoyment of any of the garden areas is then discussed.

A permanent residence would normally benefit from domestic 'permitted development' rights. In this instance the Council did not expressly suggest that such rights should be removed by a condition of the planning permission. However, both Local Plan policy C27 and Supplementary Planning Guidance Note 4: Conversion of Rural Buildings entertain the possibility of such action, in the interests of safeguarding the openness of the Green Belt. The Inspector judges that in this instance such a condition would allow for greater control over ancillary domestic development and would help to safeguard the enjoyment by the residents of their intimately grouped garden areas.

In response to the first reason for the refusal of planning permission, the appellant submitted a signed unilateral undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended). This would provide for the cessation of use of an adjoining stable block under the control of the appellant should the use of the site without the need to comply with conditions (5) and (6) commence. The Council did not make any submission that this undertaking would not overcome its concerns about the effect of the operation of the stables on residential amenity. The Inspector is satisfied in these circumstances that this issue should not affect the outcome of the appeal, even though the UU would not appear to prevent paddock land adjoining the three units from continuing to be used for the keeping of horses.

Of the conditions of planning permission suggested by the Council, the Inspector supports a new three year commencement condition relating to planning permission granted following the section 73 application. A condition requiring that separate garden areas be laid out in accordance with the details shown on submitted drawing 05 would be appropriate for the type of residential accommodation permitted. A new condition regarding external materials is unnecessary, as such a condition was imposed on the original grant of planning permission, and reference back to conditions of that permission could be made. The Inspector states it should be noted that notwithstanding the removal of Conditions (5) and (6), the development description of three holiday lets would not change under a new permission.

In Conclusion

The Inspector concludes that consideration has been given to all other matters raised in the written representations, but nothing has been found to outweigh the conclusions reached on the main issue in the appeal. On this basis the appeal is successful.

Costs application

No application for costs was made.

Appeal outcome

The appeal was **ALLOWED** (30th November 2011) and planning permission granted for a change of use to three holiday lets on land at the rear of Pepperwood Bungalow, Wood Lane, Fairfield, Bromsgrove, in accordance with the application ref 10/1106, without compliance with condition numbers (5) and (6) previously imposed on planning permission ref 09/0690, dated 7th December 2009, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new conditions:

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall not be occupied until separate garden areas for each unit have been laid out in accordance with the details shown on approved drawing No. 05.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 995 (or any order revoking and re-enacting that Order with or without modification), no development falling within Classes A,B,C,E,F or G of Part 1 of Schedule 2 to that order shall be carried out.

Recommendation

The Committee is asked to RESOLVE that the item of information be noted.