



Report Reference Number 2022/1081/COU

To: Planning Committee
Date: 11th January 2023
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Lead Officer: Hannah Blackburn (Planning Development Manager)

APPLICATION NUMBER:	2022/1081/COU	PARISH:	Wistow Parish Council
APPLICANT:	Mr Jeff Anspach	VALID DATE:	16th September 2022
		EXPIRY DATE:	10 th February 2023
PROPOSAL:	Change of use from just residential to include commercial holiday let (retrospective)		
LOCATION:	Westacre Station Road Wistow Selby North Yorkshire YO8 3UZ		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as it is recommended to be approved contrary to the requirements of the Development Plan (Policy H5 of the Selby District Local Plan), but it is considered that there are material considerations which would justify approval of the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 Westacre is a substantial detached dwelling with detached garage, set to the rear of existing dwellings on Station Road, Wistow. Planning permission was granted for the dwelling in 2009.
- 1.2 The dwelling sits in large gardens which extend eastwards, the gardens of other dwellings on Station Road back onto the site. To the north and west lies fields. Access to the site is from Station Road, between Bay Tree House and West Villa, a Grade II Listed Building. Part of the site (dwelling and driveway) lie within the village development limits.

The Proposal

- 1.3 Planning consent is sought to retain the use of the dwelling to a commercial holiday let. The business has been operating since 2017. There are no changes to the external appearance of the building or access.
- 1.4 A previous application for change of use to holiday let was refused in 2022 as being contrary to Saved Policy H5. This application is a re-submission accompanied with further supporting information.

Relevant Planning History

- 1.5 The following historical applications are considered relevant to the determination of this application.
 - CO/1980/17044 - Erection of a Private Dwelling & Garage, REFUSED 14-MAY-80.
 - CO/1987/0839 - Outline application for the erection of a dwelling on 0.063ha of land REFUSED 21-AUG-87.
 - 2006/1268/FUL - Erection of a detached dwelling, WITHDRAWN 14-NOV-06.
 - 2006/1560/FUL - Resubmission of withdrawn application 8/36/69B/PA for the erection of 1 No. detached dwelling on land to front PERMITTED 17-JAN-07.
 - 2009/0488/FUL - Erection of a five bedroom detached dwelling following demolition of existing dwelling, WITHDRAWN 06-AUG-09.
 - 2009/1003/FUL - Erection of a five bedroom detached dwelling with detached triple garage following demolition of existing dwelling, PERMITTED 11-JAN-10.
 - 2022/0519/COU – Change of use from residential property to commercial holiday let (retrospective) REFUSED 02-AUG-22. *“The proposal would lead to the net loss of 1no. residential unit. No justification has been provided that meets the criterion set out in Policy H5 and, as such, the proposal fails to comply with Policy H5 of the Selby District Local Plan.”*

2. CONSULTATION AND PUBLICITY

- 2.1 **Economic Development Team** – Support the proposal.
- 2.2 **NYCC Highways Canal Rd** - There are no local highway authority objections to the proposed development.
- 2.3 **Yorkshire Water** - No response within consultation time period.
- 2.4 **Selby Area Internal Drainage Board** - No comments or objections.
- 2.5 **Environmental Health** – No objections subject to conditions relating to restriction of noise and disturbance.
- 2.6 **Conservation Officer** - No objections.

- 2.7 **The Environment Agency (Liaison Officer)** – No response received within consultation time limit
- 2.8 **Wistow Parish Council** - No response received at the time of writing.
- 2.9 **Publicity** - The application was publicised by site and press notice. 32 representations have been received, 31 in support of the application (2 are duplicate letters) and 1 raising objections.

Letters of support

31 representations in support have been received (2 are duplicate letters). The grounds for support are:

- holiday home important for families with disabled family members as fully accessible
- if refused will mean loss of income to local economy
- Westacre business supports other (small) local businesses (including fish and chip shop, pub, taxi company, catering business, yoga business)
- business well run and of a high standard
- bring tourists into local area
- likelihood that if property sold will not be to local people
- applicants make sure that business does not have negative impact on neighbours
- If approved will make village more diverse
- Asset to the area – benefit to Wistow businesses, those in Cawood and Selby, especially following Covid pandemic
- No disturbance to neighbouring dwellings – noise curfew on site
- No highway impact
- There is a lack of quality holiday accommodation within the area

Letter of objection

1 representation objecting to the proposal has been received. The grounds of objection are:

- Westacre is advertised as a party/celebration house, noise from guests is greater than occupation as a dwelling, writer has made several complaints to owners and understand a curfew in place, however noise activity in Westacre garden area prevents enjoyment of neighbouring gardens.

3. SITE CONSTRAINTS

- 3.1 Part of the site lies within the village development limit. The site lies within flood zone 2 (medium probability).

4. POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".
- 4.2 This is recognised in the National Planning Policy, at paragraph 11 of the NPPF, with paragraph 12 stating that the presumption in favour of sustainable

development contained in paragraph 11 does not change the statutory status of the development plan as the starting point for decision making. It goes to state at paragraph 12 that where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations in a particular case indicate otherwise. This application has been considered against the 2021 NPPF and, in particular, the sections listed below.

- 4.3 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

“219.existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

- 4.4 The development plan for the Selby District comprises various documents including the Selby District Core Strategy Local Plan (adopted 22nd October 2013), those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy, the Minerals and Waste Joint Plan (adopted 16 February 2022), and the adopted neighbourhood plans neither of which relate to the site.
- 4.5 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2024. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan was subject to formal consultation that ended on 28th October 2022. The responses are currently being considered. Providing no modifications are proposed, the next stage involves the submission to the Secretary of State for Examination.
- 4.6 Paragraph 48 of the NPPF states that weight may be given to relevant policies in emerging plans according to: a) the stage of preparation; b) the extent to which there are unresolved objections to the policies; and, c) the degree of consistency of the policies to the Framework. Given the stage of the emerging Local Plan, the policies contained within it are attributed limited weight and as such are not listed in this report.

Selby District Core Strategy Local Plan

- 4.7 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 – Spatial Development Strategy
SP15 - Sustainable Development and Climate Change
SP18 – Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan

- 4.8 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
RT11 - Tourist Accommodation
H5 – Retention of the Existing Housing Stock
T1 - Development in Relation to Highway
T2 - Access to Roads

Minerals and Waste Joint Plan

4.9 The relevant Minerals and Waste Joint policies are:

S01 - Safeguarding mineral resources
S02 - Developments proposed within Minerals Safeguarding Areas
S07 – Consideration of applications in Consultation Areas
D13 - Consideration of applications in Development High Risk Areas

National Planning Policy Framework

4.10 Relevant sections include:

2- Achieving Sustainable Development
4 – Decision making
5 – Delivering a sufficient supply of homes
6 – Building a strong, competitive economy
14 – Meeting the challenge of climate change, flooding and coastal change
16 – Conserving and enhancing the historic environment
17 – Facilitating the sustainable use of minerals

Supplementary Planning Documents

4.11 Wistow Village Design Statement

5. APPRAISAL

5.1 The main issues to be taken into account when assessing this application are:

- Principle of Development
- Loss of Existing Housing
- Provision of Tourist Accommodation
- Impact on the Designated Heritage Asset
- Flood Risk
- Minerals and Waste

Principle of Development

5.2 Part of the site, the dwelling and the driveway, is located within the development limits for Wistow. The garage and gardens lie outside of the development limit. The dwelling was granted planning permission in 2009 and was built and occupied as a private dwelling prior to being used as a holiday let from 2017. The applicant has provided the business rates reference and an online search shows that the property is listed on 7 websites for large group stays, with bookings into 2023. This application seeks permission for its continued use as a holiday let.

5.3 The change in the use to a holiday let, will mean the loss of large family dwelling. Policy H5 of the SDLP relates to the loss of residential accommodation and states:

“Proposals involving a net loss of residential accommodation will only be permitted where:

- 1. The existing premises are unsuitable for residential use; or*
- 2. The environment is unsuitable for residential use; or*
- 3. The retention of the building for residential purposes would prevent a comprehensive development with significant environmental or highway gain or the achievement of a wider community benefit. Wherever practical, schemes should include some residential accommodation; or*
- 4. The building is required in connection with a small-scale community use or service which requires to be located in a residential area. Wherever practicable, some self-contained residential accommodation should be retained as part of the scheme.”*

- 5.4 The aim of the policy is to ensure the best possible use of existing housing stock to reduce development pressure on greenfield sites. The supporting text to the policy states that proposals involving the potential loss of housing accommodation will be weighed against the potential benefits arising from new and that wherever possible the retention or provision of an element of residential use will be encouraged.
- 5.5 With regards criterion 1, the clearest way to establish whether the existing dwelling is now unsuitable for residential purposes is to put the property up for sale – if the property is not sold then it would be established that there is no longer a need for the property to remain in residential use. The applicant has confirmed that they have not tried to sell the property and that prior to use as a holiday let was advised that if they were to sell it the property would be likely to sell to someone moving into the area rather than a local person. In the absence of any evidence to the contrary the property is considered still to be suitable for residential purposes. The type, condition and location of the dwelling also supports this view.
- 5.6 With regards criterion 2, the existing building lies within the village development limit, is surrounded by other residential dwellings and its previous use as a private dwelling has not raised any issues with neighbouring properties. It is therefore considered to be suitable for residential purposes.
- 5.7 With regards criterion 3, there is no comprehensive redevelopment scheme for this site and this criterion does not apply. With regards criterion 4 the property does not comprise small-scale community use.
- 5.8 In assessment against Saved Policy H5 the continued use as a holiday let would not meet criterion 1 and would result in the loss of a dwelling to an alternative use, resulting in a net loss of 1no. residential unit. The proposal does not comply with Policy H5.

Tourist Accommodation

- 5.9 Local Plan Policy RT11 “Tourist Accommodation” sets out criteria against which proposals for tourist accommodation are assessed. The policy relates specifically to “Tourist Accommodation” and states; “Proposals for service or non-serviced tourist accommodation, including extensions to existing premises will be permitted provided the proposal would be located within defined development limits”, which the application site is, and subject to three criteria relating to the impacts of the development which will be discussed later in this report.

- 5.10 Criteria 1 states that “Proposals for service or non-serviced tourist accommodation, including extensions to existing premises will be permitted provided the proposal would be located within defined development limits”. The existing house lies within the development limit, however the garage and garden area lie outside. Although within open countryside both garage and garden are clearly closely associated with the existing house. The proposal relates to the use of existing development and as the main use (house) lies within the development limit it is considered that criteria 1 is met.
- 5.11 Criteria 2 states that “the proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity.” In terms of highway safety, the site is accessed by an existing driveway and has on-site parking for up to 8 cars. No alteration is proposed to either access or parking arrangements. The Highway Authority have no objection to the proposal. The proposal would not therefore create conditions prejudicial to highway safety. With regards to local amenity the site lies to the rear of existing dwellings. The dwelling to the front right of the driveway is within the applicant’s ownership. The application site includes a large garden area with patio areas closer to the main building.
- 5.12 One representation has been received objecting to the proposal due to noise generated by guests. Environmental Health have confirmed that the premises has operated as a holiday let since December 2017, during which time one noise complaint was made in October 2018. The applicant states in his supporting documentation that following this complaint, policies were implemented to restrict noise at the site, notably from raised voices and amplified music, by restricting external amplified music after 23:00 and use of signage in external areas requesting that guests avoid causing noise, nuisance or disturbance to local residents. Notwithstanding the objection, no further noise complaints have been received by the Council. Environmental Health acknowledges the noise reduction measures implemented by the applicant and recommends that they are the subject of conditions.
- 5.13 It is considered that, subject to the suggested conditions, that the proposal would result in a detrimental impact on local amenity.
- 5.14 Criteria 3 states “In meeting car parking and access requirements, there would not be a significant adverse effect on the setting of the building or the character of the area”. As there are no changes proposed to access and car parking arrangements, it is not considered that there would be any adverse effect on the setting of the building or local character.
- 5.15 Criteria 4 states “The size and scale of the proposal would be appropriate to the locality”. The dwelling was approved with 5 bedrooms, this has been increased to 7 by re-purposing ground floor rooms – such changes to the internal layout of a private dwelling would not require planning consent. No conditions were placed on the original planning consent restricting the number of bedrooms. No external alterations have been made. Therefore, it’s size and scale are appropriate to the locality. It is considered that the proposal meets the criteria set out in SDLP Policy RT11.

Impact on designated heritage asset

- 5.16 Relevant development plan policies are Core Strategy policies SP18 and SP19 and Local Plan Policy ENV1. These policies require conservation of historic assets

which contribute most to the District's character, and ensure development contributes positively to an area's identity and heritage in terms of scale, density, and layout.

- 5.17 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') imposes a statutory duty upon decision makers when considering whether to grant planning permission to pay special regard to the desirability of preserving listed buildings and their setting, or any features of special architectural or historic interest that they possess.
- 5.18 NPPF Paragraph 193 requires great weight be given to the asset's conservation. The more important the asset, the greater the weight should be. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification (Paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal (Paragraph 196). Paragraph 197 requires the effect of an application on the significance of a non-designated heritage asset should be considered in determining the application.
- 5.19 The site lies to the rear of West Villa, which is Grade II listed. There are no alterations proposed to the appearance of the dwelling or access. The use of the building as a holiday let is not considered to result in harm to the designated heritage asset. Therefore, the application is considered to accord with national legislation and national and local planning policy in this regard.

Flood Risk and Drainage

- 5.20 The site lies within Flood Zone 2. Core Strategy Policy SP15A(d) seeks to ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test (if necessary). SDC's Flood Risk Sequential Test Developer Guidance Note (October 2019) is a material consideration when assessing whether a sequential test is required and how this should be produced and assessed. More recently, in August 2022, the Government has updated its National Planning Policy Guidance to strengthen to consideration of flood risk and climate change in planning proposals.
- 5.21 The proposal is for a change of use and thus there is an exemption to the need for either a sequential or exception test. The vulnerability of the use is also the same. The proposal will use the existing drainage arrangements for the existing building, and it is not considered that the proposal would result in any harm in terms of drainage or flood risk.

Minerals and Waste

- 5.22 The application site is located within an area identified for the safeguarding of mineral resources. Relevant policies in relation the NYCC Minerals and Waste Plan 2022 are S01, S02 and S07, which reflect advice in Chapter 17 of the NPPF, and seek to protect future mineral resource extraction by safeguarding land where the resource is found and avoiding such land being sterilised by other development. The plan also identifies the site as falling within a Coal Mining Development Area to which Policy D13 applies.
- 5.23 However, as the application relates to a change of use of an existing building it is exempt development in respect of the safeguarding policies and Policy D13.

- 5.24 Taking the above into account, it is considered that the proposal would not be contrary to the aims of the Minerals and Waste Plan. An informative is recommended to draw the applicant's attention to the location of the site in a coal mining area.

Planning Balance

- 5.25 The proposal would result in the provision of a large and accessible holiday let within Selby District, adding to the stock of tourist accommodation in the local area. It meets the requirements of Saved Policy RT11. It is clear from evidence submitted by the applicant, representations made and Economic Development's consultation response that the holiday let supports a number of local services and business within Wistow and Cawood and beyond, but primarily within the Selby District. There is a clear economic benefit weighing in support of the proposal.
- 5.26 The use of the property as a holiday let will remove it from the existing housing stock and therefore does not meet the requirements of Saved Policy H5. However, it would not require much change to the property to return it to single family occupation at a future date. Selby District is in greatest need of 2 and 3 bedrooomed dwellings, rather than dwellings with more than 4 bedrooms. Therefore, the loss of this large property to a holiday let is considered not to have a significant impact on the housing stock of the District. Furthermore, it could be returned to a private dwelling at a later date.
- 5.27 It is therefore considered that whilst the proposal does not comply with Saved Policy H5, the property could easily be converted back to a single family dwelling in the future. The economic benefits of use as a holiday let to the local area are clear and is considered to be a material consideration in support of the application.

6. CONCLUSION

- 6.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that whilst the proposal does not comply with Saved Policy H5 of the Selby District Local Plan the continued use of the property as a holiday let would support small businesses within the local area and the economy as a whole. It is considered that this is a material consideration supporting the proposal and justifies recommending approval of the application contrary to the requirements of the development plan.
- 6.2 The proposal is not considered to negatively impact on highway safety, residential amenity, flood risk, nearby designated heritage assets or mineral safeguarding.

7. RECOMMENDATION

This application is recommended to be GRANTED with conditions:

- 01 The development shall be carried out in accordance with the approved plans:

0031-1-A	Location Plan
0031-2-A	Site Plan
0031-3-A	Ground Floor Plan
0031-4-A	First Floor Plan

0031-5-A Elevations (sheet 1)
0031-6-A Elevations (sheet 2)

Reason: For the avoidance of doubt and in the interests of proper planning

- 02 No speakers for amplification of speech or music shall be used on the outside of the premises or on the outside of any building forming a part of the premises between the hours of 2300 and 0700.

Reason: To protect residential amenity of existing residents and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England(NPSE) and Selby District Council's Policy's SP19 and ENV2.

- 03 Suitable signage shall be positioned on the outside of the premises or on the outside of any building forming a part of the premises requesting that guests respect local residents and avoid causing noise, nuisance or disturbance.

Reason: To protect residential amenity of existing residents and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England(NPSE) and Selby District Council's Policy's SP19 and ENV2.

8. Legal Issues

8.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

8.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

8.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

9. Financial Issues

Financial issues are not material to the determination of this application.

10. Background Documents

Planning Application file reference 2022/1081/COU and associated documents.

Contact Officer: Linda Drake (Planning Project Officer)

Appendices: None