



Appeal Decision

Site visit made on 21 November 2023

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 December 2023

Appeal Ref: APP/X1118/W/22/3312494

The Bolthole, Milltown, Muddiford EX31 4HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Paula Rooke-Ley against the decision of North Devon District Council.
 - The application Ref 72984, dated 26 February 2021, was refused by notice dated 8 June 2022.
 - The development proposed is described as the change of use of existing buildings and land to a rural wedding venue.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings, with regards to noise;
 - The effect of the proposed parking arrangements on highway safety; and
 - The effect of the proposed development on protected species.

Reasons

Living Conditions

3. The proposed development would involve the conversion of an existing barn, and the associated land, to a wedding venue. The submitted ground floor layout plan (drawing reference 7595 D03) identifies that the building would be split into five separate areas: a wedding room, bedroom, a bar area, a store room and a wood shed.
4. There are four neighbouring properties near to the appeal site, namely 'Arbor Cottage' to the north and 'Jarrah', 'Shiloh' and 'Barwyns' to the south. In order to assess the impact of noise associated with the proposed wedding venue, ACT Acoustics produced a Noise Impact Assessment dated September 2021 (NIA 2021). During the course of the application, ACT Acoustics also provided additional feedback in relation to the Council's concerns. Finally, a further Noise Impact Assessment was produced in May 2022 (NIA 2022). It appears that the Council had not received the latter document by the time the application was

- determined, however, the appellant has submitted it as part of their appeal statement.
5. Both the NIA 2021 and NIA 2022 provide an assessment of the likely impacts of noise arising from the proposed development. The conclusions of these assessments identify that the predicted noise levels for the worst case scenario are at or below the recommended noise limit for pubs and clubs, as identified by the Institute of Acoustics, and that the increase in ambient noise would have a negligible impact. The documents appear to be based on a robust methodology, and as such, there is no reason for me to doubt the conclusions reached.
 6. However, both documents make it clear that the scope of the assessment is limited to music noise egress only. They therefore do not consider the impact of noise arising from the wedding guests themselves. In this instance, the surrounding area is very rural and tranquil, with the only existing background noise emanating from passing traffic on the B3230. At present, it is therefore likely that the occupiers of the surrounding properties experience the sort of peaceful lifestyle that is usual in countryside locations.
 7. As part of the original application, it was envisaged that the total number of wedding events would be limited to 18 per year, and that these would take place at weekends and on the occasional bank holiday Monday. This would therefore mean that for a significant number of weekends each year, a large number of people would be gathering at the venue in a celebratory manner for a number of hours, including into the evening. In my view it is highly likely that, given the nature of the events, and the fact that alcohol will be available at the venue, the noise arising from the guests themselves, including shouting and singing, would be significant.
 8. The proposed layout of the site shows that the wedding room and bar would be in separate parts of the barn and that guests would need to leave the building to move between the two. Guests would also spend time outside queueing for toilet facilities and using the smoking area. It is therefore also highly likely that crowd noise in outdoor locations would not just be limited to arrival and departure, and that it would occur for the duration of the events.
 9. Given the close proximity of the four neighbouring properties to the appeal site, it is reasonable to assume that this noise would be able to be heard from within those properties and from their gardens, particularly in the evenings where background traffic noise would be reduced. The impact would be most significant for the occupiers of the property known as 'Jarrah' as the rear garden appears to be directly adjacent to the appeal site. Given the current tranquil character of the area, the associated noise from the events would likely provide a significant disturbance which would erode the quality of life of the occupiers of all four dwellings to an unacceptable degree.
 10. During the course of the application, the appellant suggested various ways of mitigating the issue of noise. These include ensuring that there would be no outdoor music whatsoever, and that events would be limited to only 12 events per year with 42 guests, or 18 events with half only having 25 guests. However, while this would reduce the harm, it would not alleviate it completely. In addition, ACT Acoustics also suggested that the doors to the venue could be closed during the events and that access to outdoor spaces could be restricted after 9pm. The approved plans show that this would not be a practical solution

given the need for guests to move between areas of the site to access different facilities as described above. Furthermore, issuing a limited two year permission would be inappropriate given the harm to living conditions that would occur during that time.

11. The appellant has also set out that further concessions or mitigations could be offered, and that they were hoping to explore these with the Council prior to the application being determined. However, for the avoidance of doubt, I am of the view that whatever mitigation measures are proposed, they would be insufficient to address the issue. This is because the harm that I have identified is associated with noise from wedding guests which cannot be controlled or enforced to an acceptable degree, either by the use of conditions or by any other means.
12. As a result, I conclude that the proposed development would significantly harm the living conditions of the occupiers of neighbouring dwellings, with regards to noise. This would conflict with Policy DM01 and DM02 of the North Devon and Torridge Local Plan, October 2018 (LP). The relevant aspects of these policies seek to prevent development where it would significantly harm the living conditions of neighbouring occupiers or result in an unacceptable level of noise. It would also conflict with paragraph 135 of the National Planning Policy Framework (the Framework), which in part, has similar aims.

Highway Safety

13. The proposed site plan (reference 7595 DO2) identifies that the proposed development would include five car parking spaces and one slightly larger space for a light goods vehicle. During the course of the application, the appellant suggested to the Council that the parking arrangement could be amended to provide six or seven parking spaces, and an additional three overflow spaces. The appellant also set out that guests would be encouraged to use a minibus service for transport to the site.
14. While it does not appear that the Council has identified parking standards for this form of development, I am of the view that, in either scenario, the proposed number of spaces would be insufficient to cater for up to 42 guests. In addition, while the provision of a minibus service would help to some degree, its use would not be enforceable. The lack of parking spaces would create a risk of cars being parked on the B3230, or at least cars pausing on that road to drop guests off. Were this to occur, it would result in an unexpected obstacle on a relatively narrow highway, and as such, would represent a clear and obvious safety risk to other road users.
15. I note that a previous application for the site (Council reference 70896) included provision for 25 parking spaces. While that application was not determined, the appellant maintains that the Council did not support this level of parking provision due to the impact on the character and appearance of the area. I am of the view that it is likely that somewhere in the region of the proposed number of spaces in that application would be required to prevent harm in relation to highway safety. However, I make no comment on the effect of that level of parking provision on the character and appearance of the area given that this is not an issue before me as part of this appeal.
16. I therefore conclude that the proposed parking arrangements would result in harm to highway safety, and as such, the development would conflict with LP

Policies ST10, DM05 and DM06. Taken together, the relevant aspects of these policies seek to ensure that development proposals make adequate provision for car parking and that highway safety is maintained. It would also conflict with paragraphs 114 and 115 of the Framework, which in part, have similar aims.

Protected Species

17. The plan showing the proposed access alterations (7595 DO1) identifies areas either side of the access where the existing hedgerow would need to be cut back, or the associated earth bank reduced in height. The appellant's appeal statement clarifies this to some degree by stating that the required visibility can be achieved through the cutting back of the hedgerow alone.
18. However, given that works to reduce the size of the earth bank are shown on the approved plan, this would form part of the permission if this appeal were to be allowed. Reducing the size of the earth bank would likely require the removal, relocation or replacement of the existing hedgerow and other planting. In support of the application, a Preliminary Ecological Appraisal was produced by Orbis Ecology in November 2019 (the EA). The EA concludes that the proposed development would not impact upon bat roosts or nesting birds. The findings of this report were confirmed as part of an update note produced by the same consultants in March 2021.
19. However, it does not appear that the EA considered the potential impact of the removal or relocation of the hedgerow, and that instead it focused only on the change of use of the existing barn. Without this information, I cannot be certain that the works would not result in harm to protected species. The proposed development would therefore conflict with LP Policies ST14 and DM08, which in part seek to avoid adverse impacts on protected species and protect the habitats on which they depend. It would also conflict with paragraph 180 of the Framework, the relevant aspects of which aim to minimise the impacts of development on biodiversity.

Other Matters

20. The Council has set out that the appeal site is within the zone of influence of the Braunton Burrows Special Area of Conservation. The lack of suitable mitigation formed a reason for refusal. Similarly, the lack of a suitable Section 106 agreement to tie the occupation of the dwelling known as 'The Shippen' to the commercial use of 'The Bolthole' was a further reason for refusal. I note the willingness of the appellant to enter into a legal agreement to satisfactorily address these issues. However, as I am dismissing this case, there is no requirement for me to consider this matter any further.
21. I note the appellant's frustration that the Council determined the application before further evidence on noise impact could be submitted. However, it appears to me that the Council engaged proactively throughout the application process and subsequently produced a decision notice that clearly sets out the reasons for refusal.

Conclusion

22. The proposal would conflict with the development plan when taken as a whole. The provision of a wedding venue, and the associated number of guests that would use it, could have some economic benefits for the local area in terms of

the use of services and facilities. However, the limited size of the venue means that any such benefits are likely to be limited. Accordingly, there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. The appeal is therefore dismissed.

C Butcher

INSPECTOR