

DELEGATED

AGENDA NO
PLANNING COMMITTEE
28 May 2014
REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES

14/0003/COU

Change of use to increase number of bed and breakfast letting rooms from two bedrooms to four bedrooms

Thorpe Thewles Lodge, Durham Road, Thorpe Thewles

Expiry Date: 16 May 2014

SUMMARY

Planning permission is sought for the change of use of a residential dwelling (with ancillary two rooms available for let) to a bed and breakfast offering four letting rooms with ancillary living accommodation for the applicant.

Eight letters of support have been received from local residents, employees and businesses. The letters mainly relate to the need for the facility, the impact the closure of the facility would have on the employees and general support. One letter of objection has been received from a Solicitor acting on behalf of a neighbour, the objections relate to the scale (capacity for 18 people), unsuitable location, and unsafe access.

The site lies outside the limits to development and is within close proximity to a group of existing dwelling (a farmhouse and three barn conversions). The application is recommended for refusal as the development is considered to have an adverse impact on surrounding residential properties.

RECOMMENDATION

That planning application 14/0003/COU be refused for the following reason and authorise the Head of Law and Democracy to proceed with the previously agreed enforcement action to ensure the property reverts back to a residential dwellinghouse (C3);

In the opinion of the Local Planning Authority, the unauthorised use would have an adverse impact on the living conditions of the occupiers of surrounding residential properties through the increase in noise and disturbance from the patrons of the bed and breakfast, contrary to the provisions of the National Planning Policy Framework (para.123) and Core Strategy Policy CS3 (8).

BACKGROUND

1. The Development Control Practice Notes publication states "Use of part of a private house for the provision of bed and breakfast accommodation may be deemed ancillary in certain circumstances. Many local authorities adopt rules of thumb which are used to determine whether planning permission is required and it is common for guest use of up to two rooms to be tolerated. As noted above this figure has in fact been incorporated into the Scottish Use Classes Order where the total number of bedrooms is four or more. However, in England and Wales any pre-conceived threshold is necessarily crude bearing no relationship to the normal fact and degree considerations of the character and size of the house, the precise nature of the guest lettings and their effect on the neighbourhood. Taking into account the size and layout of the five bedroomed house it was considered that the use of two rooms as a bed and

breakfast was the limit that the local planning authority would consider to be ancillary to the main use of the property as a single dwelling house.

SUMMARY OF THE ENFORCEMENT HISTORY

2. A complaint was received stating the property was being used for a full bed and breakfast and that the owner did not reside at the property. Contact was made with the owner who stated only two rooms were being used at any one time and he did reside at the property. Since this time, additional information has been received by way of a website advertising numerous rooms, however again the owner confirmed that he only lets 2 at a time, depending on the requirements of the guests and the website would be changed. To date this website remains active.
3. Photographic evidence was provided via the complainant to contend that nobody resides full time at the property with various images showing 6 room key envelopes and 3 key envelopes. The owner stated he had other businesses and was not on site in the mornings and employed 3 part time staff to cook breakfast and clean after guest use. Each member of staff worked 16 hours per week.
4. An email was received from a firm of Solicitors acting on behalf of the complainant who provided a bundle of evidence to assist in the investigation which included;
 - A collection of website print outs advertising the business
 - An investigation into the business operation
 - A written record of a visit by an investigator which states 6 rooms were availableFollowing this a letter was received from the same solicitors. This letter included a taped conversation with the owner confirming that there were 6 rooms available for hire and the lodge could sleep 22 people. Further evidence of the bed and breakfast used was gathered which includes reviews from the websites "trip advisor", "late rooms" and "booking.com".
5. It was considered, based on the above background information and evidence that the scale of the development and the limited private facilities used by the owners, that the use of the premises had changed and had the character of a bed and breakfast establishment rather than that of a family dwelling house. The owner was advised that on 11th November 2013, under the Council's delegated enforcement powers the Development Services Manager and Head of Planning agreed that it was expedient to authorise the Director of Law & Democracy to take all appropriate legal action to cease the unauthorised B & B use. This led to the application under consideration to be submitted.

SITE AND SURROUNDINGS

6. Thorpe Thewles Lodge is set in open countryside located to the north of Stockton on Tees. Access to the property is via Thorpe Thewles following the old Durham Road and then off onto a long private access track. Thorpe Thewles is approximately 1.5 km north of the farm.
7. To the north of the property are three former barns which have been converted to residential dwellings, although one remains unfinished and unoccupied. To south of the site are open fields.
8. High Middlefield Farm is located to the east of the site and to the west is a livery business, which is also owned by High Middlefield Farm.
9. The site falls outside the limits to development.

PROPOSAL

10. Planning permission is sought for the change of use from a residential dwelling (C3) to a bed and breakfast (C1) offering 4 letting rooms with additional personal space for living.

CONSULTATIONS

11. The following Consultations were notified and any comments received are set out below:-

12. Head of Technical Services

Highways Comments: It is noted that the access to this site has not been shown within the red/blue line boundary; it is understood that Thorpe Thewles Lodge has no right of access from the A177 and must access the site from (old) Durham Road. It would not be acceptable to access this site from the A177 as any increase in turning manoeuvres at this location would create a highway safety concern. It is accepted that speeds on (old) Durham Road are likely to be below the 60mph limit and an additional 2 letting rooms will produce only a small increase in traffic, therefore the reduced visibility splay is acceptable in this instance. Subject to a condition specifying that vehicular access must be taken from (old) Durham Road there are no highway objections.

In addition to the above, given that it is an existing property and an increase of only 2 rooms, we would not object on sustainability and with regards to pedestrian safety given the small number of people likely to use the bus stops it is not a safety concern.

Landscape & Visual Comments: This proposal has no landscape or visual implications.

13. Head of Regeneration and Economic Development

Most recent statistics identifying the volume of tourism and overnight stays in the area date back to 2009 however there have been a lot of changes since the report was produced. With the recent closure of a large hotel in the area at Tall Trees we can see a need and anecdotally we understand that there may be a lack of accommodation space during the week for business visitors however we would question if the size of the rooms proposed would fulfil this gap. In principle we would not be opposed to the development but a more central location with good transport links would be preferable.

14. Environmental Health Unit

Further to your recent memorandum regarding the additional information to support the above, I have further comments to make in relation to the number of guests (18) which this proposal is said to potentially accommodate. I would object to the above proposal on the grounds that as a commercial undertaking this is likely to cause additional noise at night from cars and guests, which would lead to undue noise and disturbance to the adjacent residential properties. This is in addition to two noise complaints received by this Environmental Health Department about noisy from guests at the premises. An additional concern is that although management controls may be implemented there is no assurance that such measures will be complied with as this is not a licensable premises. It is also my opinion that in practice, noise from access and egress of vehicles and guests outside of the property is difficult to mitigate.

The information provided by the applicant regarding the Conder Treatment Plant NSAF25 shows a maximum capacity of 25 people at 5000 litres per day. I therefore have concerns that the septic tank would not have sufficient capacity for the additional number of guests, as the septic tank also serves the adjacent 3 properties. If the scheme is approved, I would therefore advise the following condition be imposed in order to accommodate the additional guests.

Drainage - septic tank/ cesspool: The applicant shall satisfy the Local Planning Authority (LPA) of the adequacy of the proposed means of drainage prior to the development commencing. Any septic tank to be employed shall be built in accordance to BS 6297 1983 and shall discharge over a biological filter unit, the final effluent from which shall be discharged in a manner approved by the Environment Agency and the Building Control Officer. Full details of the size and manner of construction of the septic tank shall be agreed in writing with the LPA prior to development commencing. The proposed development shall not commence until a trial hole has been excavated in the region of any proposed new outfall and reveals to the satisfaction of the LPA the adequacy of the subsoil drainage in the regions of the proposed outlet, otherwise drainage to a cesspool will be required. Suitable access

shall be maintained for the regular emptying of any septic tank or cesspool. Any septic tank shall be desludged at not less than 12 monthly intervals.

15. The Environment Agency
The Environment Agency has assessed this application as having a low environmental risk.
16. Chief Fire Officer
Receipt is acknowledged of your letter dated 7 April 2014 relating to the above premises. Cleveland Fire Brigade offers no representations regarding the planning application.
17. Grindon Parish Council; Councillor J Gardner
No comments received

PUBLICITY

18. Neighbours were notified and 1 objection was received and ** letters of support. All comments are detailed below

Letter of objection

19. Endeavour Partnership On Behalf Of Duell Farming Partnership, High Middlefield Farm Durham Road, Stockton
 - 1.This is not a bed and breakfast establishment; it is a commercial hotel currently advertising capacity for sleeping 18 people:
 - 2.It is in a peaceful rural location with a scattering of houses around it and the location is not suitable for hotel use.
 - 3.The hotel has no safe access to the very busy Durham Road. Customers and potential customers of the hotel persistently turn into the lane that leads into High Middlefield Farm but there is no access to the hotel from the farm track and all the hotel traffic then has to turn round and go back to join Durham Road at the awkward junction of the farm track with Durham Road.
 - 4.The hotel has a history of placing illuminated signs, in breach of planning law, seeking to direct customers to the hotel.

Letters of Support

20. Mrs M Mitchell, Stable View, 1 High Middlefield Farm, Durham Road, Thorpe Thewles
I live directly next door to Thorpe Thewles lodge and know they have put in for permission to extend. I would just like to add I have no objections to this, in fact think it would a good idea it would also benefit the economy creating jobs in the future. There is lack off this type off hotel in the area and it causes no disturbance to us at all and would therefore encourage this development.
21. C McGlade, Cobblestone Durham Road, Stockton
I live next door to Thorpe Thewles Lodge and would like to offer Geoff my support in the B&B planning application.
22. Alan Poole 5 Melksham Square Elm Tree Stockton

I work for Mr Geoff Clark at Thorpe Thewles lodge as a handy man and gardener, I have worked for Mr Clark for a 7months now and find all the staff very kind and considerate, before I started work with Mr Clark I was on the dole for several years looking after my two children as I am a single parent , it has been very hard to find a job which gives me pleasure and satisfaction , and Mr Clark give to me a chance to return back to work and without planning permission that Mr Clark needs I could find myself back on the dole , which is the last thing I need , so I hope that this letter to your good self will help you decide and keep me in a very good job , now and in the future.

23. Joanne Midgley, 9 Etherley Close, Stockton
I would like to offer my strong support for the planning application at the Thorpe Thewles lodge. I have worked for Mr Clark over the past nine months and rely on this income I am a single parent with a disabled daughter and this is my first job in over 17 years as i am allowed to work flexi hours. If Mr Clark has to close the bed and breakfast it will be devastating to my family life and i will struggle with financial pressures i intent to lobby my councillor to help Mr Clark.
24. Paula Addison,40 Stewart Road Stockton-on-Tees
I am writing in support of the application. I have worked for Mr Clark after struggling to find a job that was flexible enough for me to manage on top of being a single full time parent and would be really devastated to lose my job. It is also a fantastic addition to the community and local business bringing people from far and wide adding custom to the local economy and leisure facilities that our town has to offer, surely that has to be a good thing. I really don't know what situation I would be left in if I did lose my job. I feel it would be a real loss not just to me but to others too. There are a lot of returning customers, who would feel the loss too, people who live away from their families or have children at University. People only help to strengthen our business and local economy benefitting our Community. I hope your will consider these facts when making a decision.
25. A And A Solutions, 26 Yarm Road Stockton-on-Tees
We write in respect of the Thorpe Thewles Lodge. We are a local business & often have visitors to our offices, from outside of the area. In our experience, Stockton doesn't currently have sufficient accommodation available and we would support the application for further B&B/Hotel accommodation as reference above.
26. Mr John Davies, Your Energy Advisor Suite 31 Business Centre, Orde Wingate Way Durham Tees Valley Stockton-On- Tees, TS19 OGD
We would like to offer our support in the planning application for the above mentioned business. We regularly use the B&B for our Reps visiting the area and find the location and quality of service they gave on offer is perfect for our business. When Thorpe Thewles Lodge is unable to accommodate us we find it difficult to find appropriate lodging in the area. If the B&B were to close we do believe that it would be detrimental to the area for both business and tourism.
27. R Peers, Unit 12/13 Regency West Mall
Please accept this letter of support. We use the hotel on some occasions as there is a shortage of hotels in Stockton.

PLANNING POLICY

28. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan.
29. Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations

National Planning Policy Framework

Paragraph 14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means; approving development proposals that accord with the development without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

Local Planning Policy

30. The following planning policies are considered to be relevant to the consideration of this application

Core Strategy Policy 1 (CS1) - The Spatial Strategy

1. The regeneration of Stockton will support the development of the Tees Valley City Region, as set out in Policies 6 and 10 of the Regional Spatial Strategy 4, acting as a focus for jobs, services and facilities to serve the wider area, and providing city-scale facilities consistent with its role as part of the Teesside conurbation. In general, new development will be located within the conurbation, to assist with reducing the need to travel.

6. A range of employment sites will be provided throughout the Borough, both to support existing industries and to encourage new enterprises. Development will be concentrated in the conurbation, with emphasis on completing the development of existing industrial estates. The main exception to this will be safeguarding of land at Seal Sands and Billingham for expansion of chemical processing industries. Initiatives which support the rural economy and rural diversification will also be encouraged.

Core Strategy Policy 2 (CS2) - Sustainable Transport and Travel

1. Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.

3. The number of parking spaces provided in new developments will be in accordance with standards set out in the Tees Valley Highway Design Guide.

Further guidance will be set out in a new Supplementary Planning Document.

Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change

8. Additionally, in designing new development, proposals will:

_ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;

_ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;

_ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;

_ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

Core Strategy Policy 4 (CS4) - Economic Regeneration

8. Additionally, support will be given to:

i) Suitable enterprises that require a rural location and which support the rural economy and contribute to rural diversification;

ii) The establishment of new enterprises, particularly where related to existing industries, assisting them to evolve with advancing green technologies;

iii) The expansion of research-based businesses associated with Durham University's Queen's Campus;

- iv) Growth in sustainable tourism, particularly in the following locations:
 - a. The River Tees as a leisure, recreation and water sports destination, with regard given to the protection and enhancement of the character of tranquil areas along the river corridor between the towns of Stockton and Yarm;
 - b. Preston Park;
 - c. Sites linked to the area's industrial heritage, including early history, railway and engineering heritage and the area's World War II contribution; and
 - d. Saltholme Nature Reserve.
- v. The creation of employment and training opportunities for residents by developers and employers.

Saved Policy EN13 of the adopted Stockton on Tees Local Plan

Development outside the limits to development may be permitted where:

- (i) It is necessary for a farming or forestry operation; or
 - (ii) It falls within policies EN20 (reuse of buildings) or Tour 4 (Hotel conversions); or
- In all the remaining cases and provided that it does not harm the character or appearance of the countryside; where:
- (iii) It contributes to the diversification of the rural economy; or
 - (iv) It is for sport or recreation; or
 - (v) It is a small scale facility for tourism.

MATERIAL PLANNING CONSIDERATIONS

- 31. The main considerations of this report relate to the principle of the development and the sustainability of the site, impact on neighbours and pedestrian and highway safety. Whilst the local planning authority are of the opinion the site has been operating as a bed and breakfast and have authorised enforcement action, the applicant claims it has been operating as a single dwelling with ancillary bed and breakfast facilities (no more than two rooms at any one time).

Principle of Development

- 32. When considering whether a development is acceptable national and local policies and government guidance is taken into consideration and this gives an indicator on whether a development would be satisfactory or whether there are reasons that would outweigh local policy.
- 33. Guidance contained in the National Planning Policy Framework states "*Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking*", one of those principles is that planning should "*actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable*". At paragraph 29 (Supporting a prosperous rural economy) of the National Planning Policy Framework it states "*to promote a strong rural economy, local and neighbourhood plans should ... support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres*". Core strategy policy CS4 (8) states "*Additionally, support will be given to ... suitable enterprises that require a rural location and which support the rural economy and contribute to rural diversification.*"
- 34. The site lies outside the limits of development and is also therefore subject to saved Policy EN13 of the adopted Stockton on Tees Local Plan, which resists development in these locations unless "*it is necessary for a farming or forestry operation; or it falls within policies EN20 (reuse of buildings) or TOUR4 (Hotel conversions); or in all the remaining cases and provided that it does not harm the character or appearance of the countryside; where it contributes to the diversification of the rural economy; or it is for sport or recreation; or it is a*

small scale facility for tourism". TOUR4 is not a saved policy but generally supported the development of hotels and guest houses in built up areas and Saved Policy EN20 relates to the conversion of rural buildings for uses including tourism.

35. There is a need for accommodation for business visitors but given the size of the rooms it appears that the facilities caters more for large groups with no single rooms available. The Head of Regeneration and Economic Development does not object to the proposal but states a more central location with good transport links is preferable.
36. There are no local tourist attractions nearby and there are a limited number of public rights of way nearby to claim that this facility caters for those seeking to enjoy the natural environment through walking and outdoor recreation. The proposal is not linked to farm diversification and is not a rural building that would be supported by saved policy EN20.
37. Thorpe Thewles Lodge is located to the north of Stockton on Tees. The nearest services would be approximately 0.4km away (Tesco), however this would involve walking along an unlit 50MPH carriageway. Thorpe Thewles is approximately 1.5 km north of the farm and again is accessed by walking along an unlit road with no footpaths. There is an hourly bus service into Stockton, Middlesbrough and Peterlee (Bus 21A) from the main Durham Road. On plan the proposal is close to the edge of the existing conurbation, however it is considered that whilst there are some pedestrian links; these are unattractive unlit routes walking along major roads that would not be used by the patrons, who instead would rely on the private car making this an unsustainable location for the provision of a bed and breakfast facility however it is considered that given the scale of the development (an additional two rooms) that this in itself would not be sufficient to warrant refusal of the application.
38. Three letters have been received which outline how the proposal, if refusal would result in job losses. The National Planning Policy Framework states "*The Government is committed to securing economic growth in order to create jobs and prosperity*" and "*The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.*" The potential loss of jobs should be therefore be given significant weight when reaching a decision on the application and if there are no other overriding concerns the application could be supported.

Impact on neighbouring properties

39. There are four residential properties within close proximity to the bed and breakfast facility. Several complaints have been received regarding noise and disturbance and the local police force have investigated complaints of anti-social behaviour which led to the local planning authority investigating the use. Despite the applicant indicating that he retains rooms for his own use, previous evidence has shown that the bed and breakfast is operating without a full time on-site presence and therefore nobody is managing the property, with only a contact number for residents. The property, when full, can accommodate up to 18 persons.
40. The National Planning Policy Framework states local planning authorities should "*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*" Guests need to drive past Plots 1, 2 and 3 Drummoyne and in particular the main living accommodation windows of Plot 1 (known as Stable View) who has written in to support the application. Whilst the applicant has erected a large fence around the application site which offers an element of protection from noise and disturbance it is considered that the use of the property and level of activity that this brings with coming and goings of guests, car doors slamming and general noise and disturbance, will have an adverse impact on the neighbouring properties who should expect a reasonable level of peace and quiet in this rural location. Whilst it is acknowledged that two letters of support have been received from the occupiers of these plots the local planning authority has to protect the amenity of any future residents.

41. In addition to this, there are ongoing problems with guests disturbing neighbours looking for the accommodation, as most people try to access the site from the main Durham Road which is a private vehicular access for High Middlefield Farm. This has led to the owner of High Middlefield Farm erecting signage to try and deter this from happening (Appendix 6) but has previously stated that guests still knock and disturb them.
42. Overall it is considered that the use of the property as a bed and breakfast on the scale proposed has an adverse impact on the amenities of neighbouring properties through noise and disturbance and the use would be considered an unacceptable in this rural location so close to neighbouring residential dwellings

Highways

43. Access to the site is obtained from the Old Durham Road and the Head of Technical Services has no objections to the use of this access but would object to the use of the access from Durham Road (A177). The applicant has no vehicular right to/from this access, however should the application be approved a condition could be added to prevent its use in the future.
44. Taking the above into account, it is considered that the bed and breakfast accommodation in this location would not have an adverse impact on highway safety.

Drainage

45. The applicant has provided details of the septic tank at the property which is capable of serving 25 people. The tank serves this property (up to 18 guests plus the Owner (and any family)), and the additional 3 plots (Plot 1 – 3 bedrooms, Plot 2 - 2 bedrooms and Plot 3 – 3 bedrooms). Concerns have been raised that the tank cannot accommodate the level of guests that is proposed along with the other residential occupiers and therefore Environmental Health have requested that a condition be imposed to demonstrate that appropriate capacity can be achieved. Should the application be approved this condition can be applied.

Other Matters

46. Comments have been made regarding the illuminated signage at the site. Retrospective advertisement consent was sought for the retention of the sign and the application was refused. The applicant resubmitted a scheme with no illumination which was subsequently approved. The Enforcement Team are currently investigating the unauthorised illumination of the sign.

CONCLUSION

47. Taking into account the material considerations, should the application be refused then this may lead to job losses which are contrary to the aims of the National Planning Policy Framework which promotes sustainable growth and this impact should be given significant weight.
48. It is considered that whilst this is regrettable, the potential job losses would not outweigh the concerns and harm over the noise and disturbance to adjacent neighbouring properties. The application is therefore recommended for refusal and enforcement action should be taken to ensure the site operates as a C3 dwellinghouse.

WARD AND WARD COUNCILLOR(S)

WARD Northern Parishes
Ward Councillor(s) Councillor J Gardiner

IMPLICATIONS

Financial Implications:

As Report

Environmental Implications:

As Report

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers: *National Planning Policy Framework; Stockton on Tees Local Plan Adopted Version June 1997; Core Strategy Development Plan Document March 2010; Application File 14/0003/COU*