

Retrospective planning application for the change of use of dwelling to holiday let and retention of outbuilding

**Report Item No
A1**

**The Grange 69 Church Street Donisthorpe Swadlincote Derby
DE12 7PX**

**Application Reference
18/01333/FUL**

**Grid Reference (E) 431306
Grid Reference (N) 313842**

**Date Registered:
25 July 2018**

**Consultation Expiry:
29 October 2018**

**Applicant:
Mr S Marston**

8 Week Date:

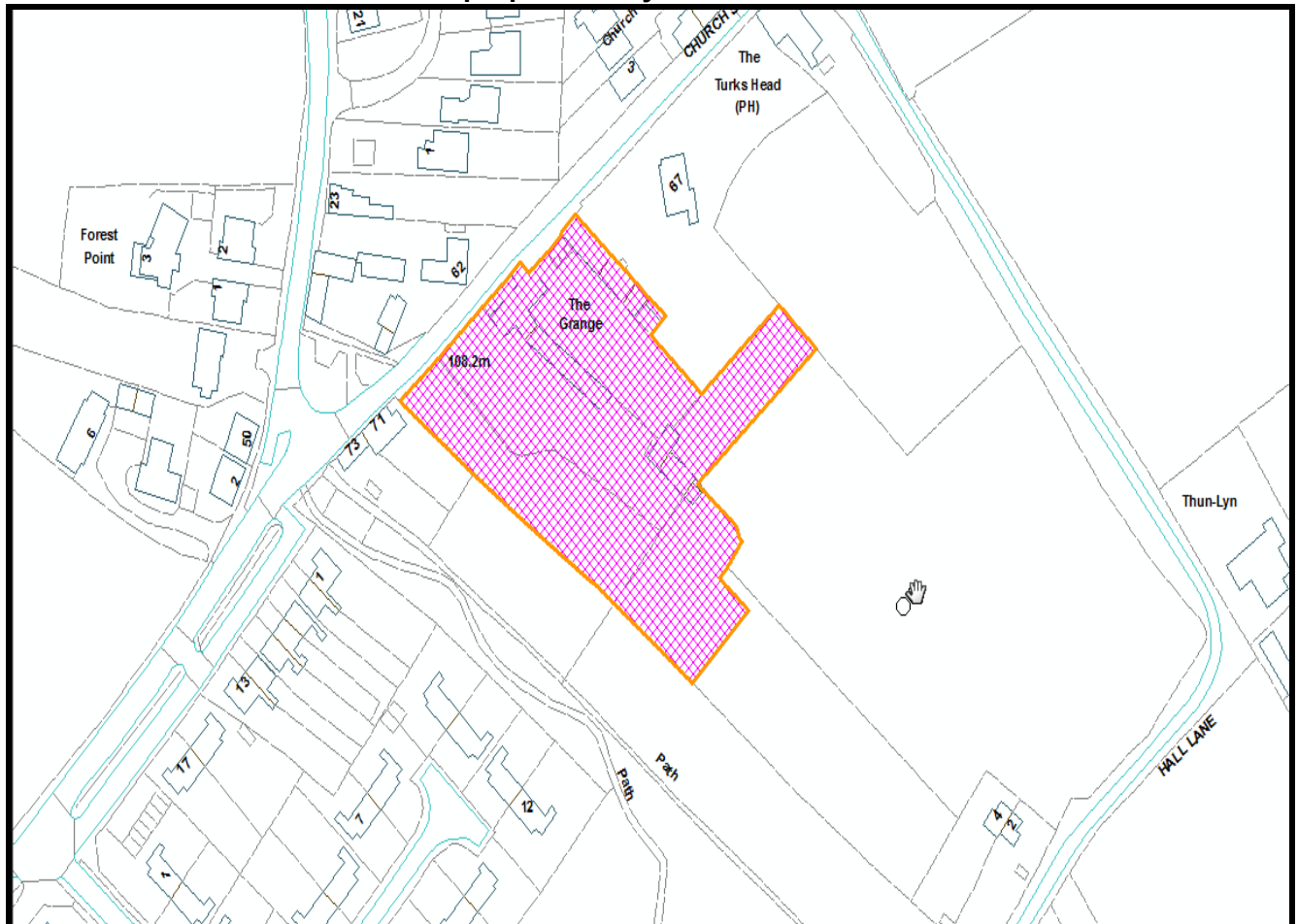
19 September 2018

**Case Officer:
Sarah Booth**

**Extension of Time:
None Agreed**

**Recommendation:
PERMIT subject to S106 Agreement**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Approval

Reason for Call In

The application is called in to Planning Committee as the Ward Member (Councillor Ashman) has requested it to be considered by Planning Committee with the reasons stated as being impacts on residential amenity of adjacent neighbours, the fabric of the Listed Building and issues with parking.

Proposal

Planning permission is sought retrospectively for the change of use of a dwelling to a holiday let and retention of an outbuilding at The Grange, 69 Church Street, Donisthorpe.

Consultations

Members will see from the main report below that there are objections raised from Donisthorpe and Oakthorpe Parish Council and four neighbours.

There are no other objections raised from statutory consultees.

Planning Policy

The site is located within Limits to Development as defined by the adopted Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The key issues arising from the application details are:

- Principle of Development
- Design and Impact upon Heritage Assets
- Impact upon Residential Amenity
- Highway Considerations
- River Mease

The report below looks at these details, and Officers conclude that the details are satisfactory. The proposals meets the requirements of relevant NWLDC policies, including the Good Design for North West Leicestershire SPD, and the NPPF.

PERMIT, SUBJECT TO CONDITIONS AND COMPLETION OF A SECTION 106 AGREEMENT.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Planning permission is sought retrospectively for the change of use of a dwelling to a holiday let and retention of an outbuilding at The Grange, 69 Church Street, Donisthorpe. The holiday let can accommodate up to 26 guests.

The site is located within Limits to Development, as defined by the adopted Local Plan.

The scheme also includes some alterations to the listed building which will be considered separately under application 18/01334/LBC, also reported on this Planning Committee agenda.

Relevant Planning History:-

18/01334/LBC Retention of internal alterations including works to staircases (Pending Consideration).

11/00140/FUL Erection of a single storey orangery, conversion of attached outbuilding to habitable accommodation, conversion of detached outbuilding to ancillary accommodation, reconstruction of former detached outbuilding and various external alterations PER 11.08.2011.

11/00103/LBC Erection of a single storey orangery, conversion of attached outbuildings to habitable accommodation, conversion of detached outbuilding to ancillary accommodation, reconstruction of former detached outbuildings and various internal and external alterations (Listed Building Consent) PER 07.04.2011.

10/01091/LBC External and Internal alteration to The Grange and restoration of Greenhouse in the garden area (Listed Building Consent) PER 13.01.2011.

10/00901/LBC Formation of new opening in garden wall. PER 09.11.2010.

2. Publicity

15 Neighbours have been notified.

Site Notice displayed 10 August 2018.

Press Notice published Leicester Mercury 15 August 2018.

3. Summary of Consultations and Representations Received

Donisthorpe and Oakthorpe Parish Council objects to the application on the following grounds:-

"This is a change of use from residential to business with the additional noise and traffic issues - to date the holiday let has caused many problems in the village, with drunken behaviour, excessive noise throughout the night and vehicles revving around the village. The Parish Council objects to this planning application."

County Highway Authority - No objections subject to a condition. Visibility splays do not meet standing advice however the proposal is not considered to be harmful to highway safety.

Environmental Protection - No objections but recommend conditions.

Conservation Officer - some concerns raised regarding outbuildings on site.

Third Party Representations

Four letters of neighbour representation have been received, raising objections on the following grounds:

- Anti social behaviour due to nature of large groups (stag / hen dos) occupying the property.
- The development is a party venue and not a holiday let.
- The owner and caretaker do not live locally and can't police the events.
- Noise, particularly at night and live music.
- Burning of waste materials on site.

All responses from statutory consultees and third parties are available for Members to view on the planning file.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2018)

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 8 and 10 (Achieving sustainable development);
Paragraphs 11 and 12 (Presumption in favour of sustainable development);
Paragraphs 38, 39, 40, 41, 42, 44, 47 and 48 (Decision-making);
Paragraphs 54, 55 and 56 (Planning conditions and obligations);
Paragraphs 96, 97, 99 and 100 (Promoting healthy and safe communities);
Paragraphs 105, 108 and 109 (Promoting sustainable transport);
Paragraphs 126, 127 and 130 (Achieving well-designed places);
Paragraphs 175 and 180 (Conserving and enhancing the natural environment); and
Paragraphs 192, 193 (Conserving and enhancing the historic environment).

Adopted North West Leicestershire Local Plan

The following policies of the adopted Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

S2 - Settlement Hierarchy
D1 - Design of new development
D2 - Amenity
EC13 - Tourism development
IF4 - Transport Infrastructure and new development
IF7 - Parking provision and new development
En2 - River Mease Special Area of Conservation
En3 - The National Forest
He1 - Conservation and enhancement of North West Leicestershire's historic environment
Cc3 - Water - Sustainable Drainage Systems

Other Policies and Guidance

National Planning Practice Guidance - March 2014.

Leicestershire Highway Design Guidance.

Good Design for North West Leicestershire SPD - April 2017.

The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).

River Mease Water Quality Management Plan - August 2011.

5. Assessment

Background

The Grange is a Grade II listed building varying between two and three storey heights and is located on the south eastern side of Church Street. The site access leads to a courtyard area which is used to provide car parking.

The site has been operating as a holiday let since 2014. Following the receipt of complaints and a recent enforcement investigation it was concluded that the intensity of the use of the property had led to a material change of use and therefore a retrospective application for planning permission was required.

This application seeks permission to regularise the existing development and retain the holiday let use for up to 26 guests. The change of use also includes some surrounding outdoor amenity space including a tennis court and garden area.

This application should be read in conjunction with the report for listed building consent ref: 18/01334/LBC which is also reported on this Planning Committee agenda.

Principle of Development

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan 2017.

The site is located within Limits to Development as defined by the adopted Local Plan.

Policy S2 of the adopted Local Plan categorises Donisthorpe as a sustainable village which has a limited range of services and facilities where a limited amount of growth will take place within the defined Limits to Development.

Policy Ec13 of the adopted Local Plan also supports new tourist attractions and accommodation particularly within Limits to Development.

As the application site is within the defined Limits to Development and relates to the conversion of an existing building to provide holiday accommodation, it would accord with Policies EC13 and S2 of the adopted Local Plan. Accordingly, there is no objection in principle to the proposal, subject to all other matters being properly addressed.

Design and Impact upon Heritage Assets

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 and the Council's Good Design SPD but also paragraphs 127 and 130 of the NPPF 2018.

The application property is a Grade II Listed Building and therefore the development must be considered against section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that when considering a planning application for development that affects a listed building or its setting the decision maker, "shall have special regard to the desirability of

preserving the building or its setting or any features of special architectural or historic interest which it possess".

Paragraph 192 of the NPPF 2018 states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 193) that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The Conservation Officer has noted that no uses are proposed for the historic outbuildings within the application site which could result in a lack of investment in their maintenance. With this in mind it is noted that the 2011 application (11/00140/FUL) granted approval for ancillary accommodation within some of the outbuildings and this permission has been partly implemented. Therefore the rest of the works to the outbuildings could commence at any time. Notwithstanding the above, this is not an overriding consideration for the acceptability of this application as the Local Authority has powers under separate legislation that can be utilised if any heritage assets are thought to be at risk in the future. Therefore it is not considered that a reason for refusal could be sustained on this basis.

This application also seeks approval for the retention of a new outbuilding within the garden area of the site, which is used to accommodate a Jacuzzi. The new outbuilding has been constructed in timber and has a sympathetic appearance to the historical character of the area. The appearance of this building is considered to be acceptable in accordance with Policies D1 and He1 of the adopted Local Plan.

It is highlighted that there have been some unauthorised works to three windows on the front elevation of the property. These do not require planning permission but would require listed building consent. The applicant is working with the Council's Conservation Officer and Enforcement Team with a view to submitting an application to address concerns in relation to these unauthorised works. Please note that this matter is not for consideration in this application.

The only other alteration to the listed building is internal and does not require planning permission. This is considered under application 18/01334/LBC which is also reported on this Planning Committee agenda.

Overall it is considered that the proposals would not harm the listed building and would preserve the character and appearance of the area. The proposal is considered to be in accordance with Policies D1 and He1 of the adopted Local Plan, the Council's Good Design SPD and the advice contained in the NPPF. Taking the above into account, it is considered that the scheme is appropriate and would comply with the NPPF 2018.

Impact upon Residential Amenity

This is not a conventional holiday let as it accommodates large groups of people including stag and hen parties as well as for family gatherings and Birthdays. Four letters of objection have been received as well as concerns from the Parish Council on the grounds that there is often excess noise generated from the site, particularly during unsocial hours and for extended periods of time. Neighbours have advised that there is often live music and anti-social behaviour and they have raised concerns that the owners and the caretaker do not live locally and therefore cannot police these impacts. These matters will be assessed further below.

Taking into consideration the previous dwelling when compared to the holiday let use, it is acknowledged that there could be an increase in the level of comings and goings to and from the site. The Council's Environmental Protection team have been consulted on this application and originally raised no objections to the scheme, however in light of the objections received from members of the public and the Parish Council further discussions were held with Environmental Protection to assess the matters raised.

Environmental Protection have advised that they have received three noise complaints about this property in the past, two of which were for the same weekend earlier this year and the first complaint was in 2015. This is not considered to be a high level of complaints resulting from the use of the property as proposed.

The applicant has stated that all guests are told that there should be no external noise from 11pm to 9am and there are signs around the house to remind guests. This is also explained in the house manual, which is available online and has been submitted with the application as a supporting document. The applicant has advised that if occupants do not comply with these restrictions they can lose their deposits or be asked to leave, although this has not been given any weight in the decision making process.

The applicant has advised that the only complaints from local residents they have received directly were around three years ago, on three separate incidents, and in relation to one of these incidents, the guests were asked to leave. It was on this basis that the applicant introduced a noise policy. There have been no further complaints received by the applicant since.

The applicant has advised that close neighbours to the house have been given the managers contact details in case any issues arise. Some neighbours have raised concerns that the manager does not live locally, however the applicant has advised that the house manager is on 24 hour call and can be on site within half an hour.

Notwithstanding the applicant's efforts, the Local Authority would still need to be satisfied that any disturbances in the future are minimised and could be controlled by the Local Authority. Following detailed discussions with the Council's Environmental Protection team it is recommended that it would be reasonable to attach two conditions to control the use of the site and protect the amenity of neighbouring residents. Firstly it is recommended to condition that the site cannot be occupied by any more than 26 occupants, to limit the scale of the development, and secondly it is advised that a condition should be attached to restrict any outdoor activity between the hours of 11pm and 9am.

Members are advised to note that noise complaints are dealt with by the Council's Environmental Protection team. If there continues to be noise nuisances then these can be reported to the Council's Environmental Protection team for them to investigate.

It is also advised that a condition should be attached if permission is granted to ensure that the change of use is only limited to the land within the red line and not the adjacent fields which are closer in proximity to neighbouring properties and have not been assessed as part of this application.

In view of the recommended conditions it is not considered that a reason for refusal based upon the impact upon the neighbouring properties could be sustained in this case. Therefore on balance, the proposal is not considered to result in harmful impacts upon surrounding residential amenity. Therefore, the development is considered to be in accordance with Policy D2 of the

adopted Local Plan and the Council's Good Design SPD.

Highway Considerations

The County Highway Authority (CHA) originally considered the scheme under the 'Standing Advice' procedure, however officers requested a detailed response from the CHA after it was determined that the site access visibility splays did not conform to Highways Standing Advice. The Parish Council have also raised concerns with regard to highway safety and therefore more detailed advice from the CHA was requested.

The CHA have considered the scheme and have advised that whilst the visibility splay is not ideal, given that the property was previously a large dwelling this could have also attracted a significant amount of vehicular trips, especially if occupied by extended family. It is also noted there is no feasible way to improve the visibility splays, given the listed status of the building and the confined street environment.

Given that there are no recorded personal injury collisions within the last five years, the CHA would not object to the application provided that the property is let effectively as a whole, and not on a room by room basis i.e. not operating in the same manner as a hotel. It is therefore recommended that a condition should be imposed regarding that the property is let as a whole, and not on a room by room basis and thereby reduce the number of vehicular movements associated with the site. As such is not considered that this matter would warrant a reason for refusal, in this case.

With regard to car parking the CHA have advised that the minimum number of parking spaces for this site should be calculated on the basis of one space per bedroom, plus additional for staff, if necessary. The submitted floor plans and supporting information show a total of 8 bedrooms; however taking into account space to accommodate additional sleeping arrangements the Local Planning Authority has assessed the development on the basis of having 10 bedrooms. As there are 10 bedrooms and two members of staff, a minimum of 12 parking spaces are required. It has been found that at least 12 spaces can be accommodated within the application site and the development is therefore in accordance with the CHA Design Guidance.

Overall, the CHA is of the view, the residual cumulative impacts of development are not considered severe in accordance with Paragraph 109 of the NPPF 2018. Accordingly the highway safety aspects of the scheme are considered acceptable and the proposal is considered acceptable in relation to adopted Policies IF4 and IF7 of the adopted Local Plan.

Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Discharge into the river from non-mains drainage systems and from surface water disposal can also result in an adverse impact on the SAC, including in relation to impacts on water quality and flow levels.

The proposal could result in an impact on the SAC, which may undermine the conservation objectives as it may result in the additional discharge of foul drainage to the treatment works / use of a non-mains drainage system and surface water drainage discharge. Therefore an appropriate assessment of the proposal and its impacts on the SAC is required.

The holiday let use can accommodate up to 26 people which is considered to result in a higher discharge of foul drainage from the site than a dwellinghouse. Foul drainage is being discharged to the mains sewer and as such a contribution under the terms of DCS2 is required. This contribution has been calculated the basis of the number of bedrooms. Given that the site was formerly a dwelling it is considered reasonable to deduct 4 bedrooms from the total of 10 bedrooms to only account for the additional impact of the holiday let use beyond the former dwelling.

A contribution based on 6 bedrooms is concluded as £949.5 which the applicant has agreed to. The applicant is currently working with the Council's legal team to complete the legal agreement and secure this contribution.

With regard to surface water drainage the only increase in floor area relates to a new timber outbuilding and this drainage discharges to a soakaway. It is therefore considered that the drainage would be a sustainable method which would not adversely impact on the River Mease SAC.

On this basis, it is considered that the integrity of the River Mease SAC would be preserved and the development would accord with Policy En2 (River Mease Special Area of Conservation) and Cc3 (Water - Sustainable Drainage Systems) of the adopted Local Plan.

Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations 2017, the NPPF and adopted Policies S2, EN1 and EN2.

Other Matters

Concerns have been raised by a neighbour regarding burning of waste materials on site. This has been discussed with the Council's Environmental Protection Officer who has advised that having a bonfire on site is not an offence in itself. Should this happen on a regular basis then it could be classed as a statutory nuisance and the neighbours effected would need to report this to the council for our Environmental Protection team to investigate.

Conclusion

The principle of the development is acceptable. The proposal is not considered to have any significantly detrimental design, heritage, residential amenity or highway impacts and it is considered that the integrity of the River Mease SAC would be preserved. It is also considered that the proposals would not harm the Listed Building. The proposal is deemed to comply with the relevant policies in the adopted Local Plan, the advice in the NPPF and the Council's Good Design SPD. There are no other relevant material planning considerations that indicate planning permission should not be granted. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION:- Permit, subject to the following conditions and completion of a Section 106 agreement

- 1 In accordance with amended plans
- 2 Site to be occupied as a whole unit.

PLANNING APPLICATIONS- SECTION A

- 3 No outdoor activity between the hours of 11pm and 9am.
- 4 Occupation of the site is limited to a maximum of 26 guests.
- 5 The area for the change of use is limited to the redline boundary.