The Planning Inspectorate

Appeal Decisions

Site visit made on 8 August 2017

by Paul Jackson B. Arch (Hons) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 September 2017

Appeal A: APP/U1430/W/17/3166425
Appeal B: APP/B1415/W/17/3166427
Land east of Hastings Road, Bexhill-on-Sea, East Sussex TN40 2JU

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals to grant planning permission.
- The appeals are made by The Restaurant Group against the decisions of Rother District Council and Hastings Borough Council.
- The applications Ref RR/2016/662/P and HS/FA/16/00148, dated 4 March 2016, were refused by notices dated 4 July 2016 and 28 September 2016.
- The development proposed is erection of two single-storey restaurant units with associated parking, servicing and landscaping.

Preliminary matter

1. The administrative boundary between Rother and Hastings crosses the southern portion of the site. The development was the subject of 2 applications and I consider the appeals together.

Decisions

2. The appeals are dismissed.

Main Issues

3. The applications were refused for broadly similar reasons. The 5th reason for refusal, relating to archaeology, is not now being defended by the Councils. The main issues are as follows:
   - The effect on the Coombe Valley Countryside Park (CVCP) and the character and appearance of the area;
   - Whether the proposal is in accordance with the overall strategy for retail and related service uses in the Rother and Hastings districts; and
   - The effect on wildlife and biological diversity.

Reasons

The site and surroundings

4. The CVCP is a large area of land behind Bexhill-on-Sea and Hastings which extends to the coast at the Glyne Gap, a narrow strip of undeveloped land about 150 metres (m) wide between areas of housing. The site consists of a area of grassland at the far eastern edge of the Glyne Gap where it meets the A259, the main coast road linking Bexhill with Hastings. The CVCP at this point distinctly separates the urban areas of Bexhill and St Leonards, the western part of the conurbation of Hastings. The site is part of a field commonly known

as Glyne Gap Field which is used for casual recreation and from time to time, boot sales, fairs and visiting circuses. A railway line and the A259 separate the field from the seashore, which at this point also forms part of the CVCP known as Bulverhythe Beach. A passageway under the railway line, linking with a 'pelican' crossing, provides access to the shore. Immediately to the west is the Ravenside Retail and Leisure Park (RRLP) a large 'out of town' shopping centre including well known retail outlets and a large car park.

The effect on the Coombe Valley Countryside Park (CVCP) and the character and appearance of the area

5. Despite being narrow at this point, a long vista to the north east is available across the Glyne Gap and the appeal site towards high ground and woods behind St Leonards. All of the green open space that is visible lies within the CVCP. The vista is clearly perceived from the A259 in particular as traffic slows when it sharply changes direction. The gap between the urban settlements of Hastings and Bexhill is clearly defined because of the rising land on either side of the Glyne Gap and the A259. The vista and the open space is gradually revealed on descending the long straight hill eastwards from Bexhill on the A259 De La Warr Road or towards the sea on Hastings Road. These views include the appeal site which contributes strongly along with the adjoining open land to a sense of visual relief in an otherwise densely built up area. The scrub vegetation on the western edge of the appeal site behind the footway can be seen from most of the car park of the RRLP, with higher ground behind including the low sandstone cliffs behind the beach adding to the impression of open space beyond. In addition, occupiers and visitors to residential development north of the appeal site in York Road and Kent Close have a clear view of the site as part of the CVCP.

6. I conclude from this that the site as part of a wider area of adjacent land to the east is highly valued for its scenic quality by reason of its contrast with nearby extensive built development and its direct linkages with wider countryside and the shoreline. It has a distinctive character despite its relatively degraded quality in terms of form and vegetation. As such it is an important local resource which is highly sensitive to change of the type envisaged.

7. The proposed new buildings would add substantial built form on the eastern side of the road where there is currently only a historical[1] filling station of relatively small bulk with a simple, visually permeable canopy. On its own, this appears out of keeping surrounded by open grassland, but the addition of the 2 new restaurant blocks would completely urbanise the eastern corner of the CVCP with no obvious natural boundary line separating them from open land. The proposed 'green' roofs would be of only limited value in mitigating the impact. There is no other identifiable recognition in the design of the scheme of the unique qualities of the site. The creation of a landscaped buffer zone would only serve to further obstruct views of the CVCP from the A259. The car park would be entirely conventional and would reflect the dense development in the RRLP on the other side of the A259, completely removing any remaining sense of open space seen from this direction.

8. The land is not in good condition and receives only basic maintenance by mowing. Nevertheless it is important in townscape terms because of its immediate contrast with intensive built development and traffic. It is clearly

[1] Since 1899

valued by many for this contribution. It is not 'urban fringe' in character but a distinct and clear part of a much wider area of countryside with a direct link to the shore. It performs an important role in defining the edge of the narrow Glyne Gap between large urban settlements which extend generally uninterrupted for 5-6 km to both east and west. That role attracts even more significance and value because it lies adjacent to a major trunk road and intensive retail uses.

9. The proposed restaurants and associated car parking and activity would be visually prominent and would effectively extend the RRLP beyond the A259 into an open green field. I have had regard to the exclusion of the Rother part of the site area from the Bexhill and St Leonard's Strategic Gap on the Proposals Map of the 2006 Rother District Local Plan but give some credence to the proposition that as a far greater proportion of the gap lies in the Hastings Borough area, the strategic function of this corner of Rother could have been somewhat overlooked as the plan developed. Whilst adopted policy, the omission does not diminish the value of the land in terms of its contribution to the strategic gap, which is plainly visible, or the implications of developing it in the manner proposed. The land is in any case proposed to be included in the strategic gap in the emerging New Local Plan in policy DEN3.

10. Moreover, the joint aim of Rother and Hastings Councils is to improve linkages in the green infrastructure network of which the CVCP is part and this is specifically identified in the 2014 Hastings Planning Strategy (HPS). The erosion of the western part of the park would diminish the attractiveness of the pedestrian and cycling link between Bulverhythe Beach and the rest of the CVCP.

11. The car park and large scale retail buildings of the RRLP are identified as a landscape detractor in the appellant's Landscape and Visual Impact Assessment. They do not provide a reason for further deterioration by means of more retail development, particularly on a green field site physically separated from the RRLP by the A259 which provides visual relief proportionally far in excess of its size and quality. I conclude that there would be a marked and significant deterioration in the character and appearance of the CVCP where it meets the coast. There would be a significant adverse visual impact for residents, drivers, shoppers in the RRLP, those using the facilities of the CVCP and those enjoying the open nature of the shoreline who may pass under the bridge towards the country park. The significance of the visual impact is shown to be particularly high in the appellant's chosen viewpoints 1, 2 and 6 but would also be noticeable from other viewpoints such as from De La Warr Road. There would be a distinct sense of infill of an important green gap in development between large settlements. The proposed development which involves two formulaic, architecturally unremarkable food outlets and associated car park would conflict with the aims of saved policy DS5 of the 2006 Rother Local Plan (LP), the relevant parts of policies HF1, OSS2, OSS3 and EN1 of the 2014 Rother Local Plan Core Strategy (CS), policy DM1 of the Hastings Local Plan Development Management Plan (HLPDMP) and policies EN2 and EN8 of the HPS.

Strategy for retail and services

12. The clear intent of the relevant up to date policies (EC7 of the CS and E3 of the HPS) are that proposals for town centre uses should be focussed firstly in town

centres, secondly edge of centre locations and lastly out of centre locations. There is no definition in development plan policy of an 'edge of centre' location. The Councils have shown that there are town centre locations within easy reach of railway stations, but the nature of the developer's proposal is important in considering whether there those sites are suitable and viable.

13. The RRLP is defined as an 'out of centre' location, being about 2 km from Bexhill town centre and further away from the commercial centres of St Leonards or Hastings. The site is on a busy bus route and on a main road but does not benefit from a railway station. Whilst the distances involved would deter some from making a special journey from either Hastings or Bexhill, I conclude that the site is moderately well connected to the town centres, in the terms used in Planning Practice Guidance (PPG). It is an existing large shopping centre well placed to serve 2 large urban districts and is popular with shoppers who are likely to require places to eat and drink. It is also the site of Bexhill Leisure Pool which generates further footfall. I have no reason to query the consumer catchment area of around 100,000 people which would ensure the viability of the development. Neither of the centres of Bexhill or Hastings meet this criteria. The chosen site is next to a long established out of centre location with a joint catchment area of around 150,000 which is already an established destination.

14. The 2 restaurants are complementary in that Frankie and Benny's is intended primarily to serve lunchtime customers and Chiquito satisfies evening demand. There are significant practical difficulties (floorspace, access) with several of the most central sites. I have no reason to disagree that of the 16 other sites identified in the appellant's sequential sites assessment, none meet the appellant's requirements in terms of suitability, availability and viability. The development would not conflict with the strategic retail location objectives of the CS and HPS.

Biological diversity

15. The site lies within the western extent of the Marshy Grassland and Reed Bed, Glyne Gap Site of Nature Conservation Importance (SNCI) and is a Local Wildlife Site (LWS) on the Hastings LP Policies Map. This is a compact site in a residential area linking open countryside with the sea. Measures to secure ecological enhancement and subsequent management are intended to be ensured by a Unilateral Undertaking (UU) which includes the text of an Ecological Conservation Management Plan (ECMP). The intention of the ECMP over a period of 10 years is to manage new appropriate vegetation on the restaurant site including 'green' roofs to maximise biological diversity. On the 'compensatory' site outside the red line boundary, invasive species are to be removed and water areas enhanced as well as other beneficial measures.

16. The existing SNCI and LWS appear somewhat neglected. Scrub and rough grassland lie adjacent to overgrown ponds and areas of Japanese knotweed. All areas appear heavily used and are littered. The grassy part near the appeal site is regularly used for other purposes by boot fairs and circuses amongst other things. The extensive compensatory area outside the 'red line' development site is defined as the 'Owner's Land' in the UU. It is important that the negative effects on biological diversity of developing the application site with buildings and a large car park are compensated for by significant enhancement of the 'Owner's Land' but the draft UU appears to exclude the Owner from any

obligation in respect to this area[2]. At the very least, the UU is insufficiently clear on this point. The UU appears to only be enforceable in respect of the land comprising the site itself.

17. With regard to the Council's preference that unregulated boot sales and fairs within permitted development rights are in future restricted as it seems to me that with a suitable degree of control on siting and timing, some kinds of events may not necessarily be harmful to biological or wildlife interests. However the UU puts in place no method by which such management may be achieved and this is also a matter of concern.

    A UU should be submitted signed and dated with the appeal documentation. This UU remains unsigned. Most importantly, however, it has not been shown that wildlife and biological diversity interests would be protected, contrary to policy EN6 of the HPS and the relevant parts of policy EN5 of the CS; and paragraph 118 of the NPPF. I conclude on this issue that the UU cannot be given any significant weight.

Conclusion

18. Notwithstanding my conclusion that the development would not conflict with the strategic retail location objectives of development plan policy, it would significantly diminish an important and valued part of the CVCP and markedly further detract from the existing character and appearance of the area which forms a distinct countryside gap in development between Hastings and Bexhill-on-Sea. There is nothing to show that measures to enhance biological diversity would be effective or long lasting. For these reasons, the appeals should be dismissed.

Paul Jackson

INSPECTOR

[2] Wording at paragraph 5 on page 5