
Appeal Decision

Hearing Held on 23 July 2019

Site visit made on 23 July 2019

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2019

Appeal Ref: APP/P2365/W/18/3214555

Riverside Caravan Park, Southport New Road, Southport PR9 8DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Harrison Leisure Ltd against West Lancashire Borough Council.
 - The application Ref: 17/0795/FUL, is dated 31 July 2017.
 - The development proposed is the demolition of existing buildings and erection of new shops and on-site leisure facilities.
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Preliminary Matters

1. The site lies within the Green Belt where new development is strictly controlled. This proposal seeks to replace existing buildings which would be removed. The National Planning Policy Framework (NPPF) indicates that the partial or complete redevelopment of previously developed land which would not have a greater impact of the openness of the Green belt is not inappropriate. The main parties agree that this proposal would follow this principle. I agree that the reduction in footprint and the modest bulk of the buildings proposed would not have any greater impact on openness than that which exists. The proposal would therefore not be inappropriate development in the Green Belt.
2. The main parties further agree that the design of the proposed development would be acceptable. Again, I agree. The buildings which would be replaced are utilitarian and unattractive. Those proposed are clean and modern. The development would enhance the approach to the caravan park. Furthermore, from the surrounding locality, which includes a main approach to Southport, the new buildings would provide a more attractive roadside vista.
3. There have been no objections to the proposal in relation to highway matters, subject to the imposition of appropriate conditions (which I deal with later) and no objections in relation to ecological matters.
4. After the hearing a number of changes were made to the suite of Planning Practice Guidance (PPG) documents, including to the guidance relating to town centres. The parties have been given the opportunity to comment on these changes and I have taken the comments made into consideration in reaching my decision.

Decision

5. The appeal is allowed and planning permission is granted for the demolition of existing buildings and erection of new shops and on-site leisure facilities at Riverside Caravan Park, Southport New Road, Southport PR9 8DF in accordance with the terms of the application, Ref: 17/0795/FUL, dated 31 July 2017, subject to the conditions set out at the end of this decision.

Application for costs

6. At the hearing an application for costs was made by Harrison Leisure Ltd against West Lancashire Borough Council. This application is the subject of a separate decision.

Main Issues

7. The main issues in the appeal are:
 - (a) Whether a more extensive sequential test in relation to main town centre uses is necessary;
 - (b) Whether it has been shown that flood risk has been adequately dealt with.

Reasons

Sequential test

8. The proposed development would be a physical replacement for utilitarian buildings already on site. However, the balance of uses within the buildings would alter. Although the overall footprint of built development would reduce that given over to retail uses would increase significantly. That, together with other uses such as a hairdresser and restaurant, are clearly town centre uses. The Appellant carried out a sequential test and concluded that no other sites were available and suitable in the nearby settlements.
9. The Council clearly wishes to protect existing town centres and I understand that objective. However, in essence, this proposal is not a completely new use in an out of centre location. It would be intended to provide upgraded facilities primarily to serve the large holiday park to which it is attached and this is accepted by the Council. Whilst it is acknowledged that some people passing by may also use the facilities it seems to me that any passing trade would be likely to be of a minor nature. As pointed out the holiday park has a significant population when fully occupied, and I accept that there is scope for a much larger store than that currently on site to service the day to day needs of its occupants. I am also satisfied that the other outlets which may occupy the development (including hairdresser, restaurant, ice cream shop) would be likely to be principally used by holiday park residents.
10. I do not have any detailed evidence of the proportion of trade at the existing retail outlet which is from the holiday park. However, given the location of the outlet I accept that the great majority will be from holiday park residents. But the proposed development would offer scope to be more attractive to passing trade, and the reorientation of the block to be more outward facing would make this more likely. However the level of passing trade would be restricted by the relative difficulty in seeing the development when approaching along the adjacent highway. The fact that this is a dual carriageway with direct access from one direction only also dilutes the likelihood of passing trade.

11. Planning Practice Guidance advises that particular market and locational requirements may mean that certain town centre uses may only be accommodated in specific locations. Given that this development has the specific intention to serve the holiday park on which it is located this seems to me to be such a case. I am satisfied that it has been shown that there is a justified and specific locational need for these facilities on this site, and that the sequential test undertaken has been proportionate. The development is therefore in line with PPG advice and development plan¹ Policy IF1.
12. The Council has not adequately addressed the fallback position in this instance. There are extensive, if unattractive, buildings on site which could be used for their lawful use, and in some cases permitted development would allow the lawful use to change. It has not been agreed which of the buildings could lawfully change but it seems to me that there would be scope to allow a greater range and extent of retail uses on the site.
13. Be that as it may I am not satisfied that the Council has been proportionate in requesting a sequential test which goes beyond that carried out by the Appellant. As a development which is intended to serve the holiday park first and foremost it would be unusual to suggest that those services provided in the development should be located off site. That seems wholly illogical and would require site residents to travel (probably by car) to other locations to satisfy their needs. The fact that passing trade is unlikely to be significant means that a more proportionate approach to the sequential test is appropriate. I am satisfied that the Appellant has shown that there are no sequentially preferable sites at which this development could take place. I therefore find no conflict with development plan Policy IF1 which seeks to maintain vibrant town and local centres, or Policy GN5 which sets out the requirement for sequential testing.

Flood Risk

14. The site is located in flood zones 2 and 3a. The main plank of the Council's objection to this proposal, as encapsulated in its putative reason for refusal, is that the Appellant has not carried out sequential or exception tests. Two separate flood risk and drainage reports have been carried out. As a result there have been no objections to the scheme (subject to the imposition of conditions) from the relevant authorities advising on flood risk.
15. The question, then, is whether a sequential test is strictly necessary, or whether the flood reports submitted (and accepted) include a sequential test by implication. A common sense judgement is that the agreement of the flood control authorities to the drainage strategy implies that there is acceptance that no better site is available. In any event the appeal site is in the Green Belt and is not inappropriate because it involves redevelopment. Any other site in the Green Belt available to the Appellant would render the proposal inappropriate development and would therefore almost certainly rule it out. In short, taking a pragmatic and proportionate position, and bearing in mind the lack of objection to the proposal, it seems to me that insisting on anything more than what has been provided as a sequential test for flood risk would have achieved nothing.
16. With regard to the exception test, given that the flood control authorities do not object to the proposal, the Council accepts that part 2 of the exception test

¹ The West Lancashire Borough Local Plan 2012 – 2027 DPD

is met. It therefore only remains to decide whether part 1 of the test is satisfied.

17. My reasoning in relation to the first issue sets out that the development is designed to service the existing holiday park. The Council's own policies support the promotion and enhancement of tourism in general terms, and there is no dispute that this development would enhance the rural tourism offer. The proposal would create employment and be in accordance with development plan Policy EC2 relating to the rural economy. There would therefore be wider sustainability benefits to the community which outweigh any flood risk (which in any event can be mitigated as agreed). As a result I am satisfied that it has been shown that flood risk on this site has been adequately dealt with.

Conditions

18. A number of conditions were agreed prior to the hearing as being necessary in the event of planning permission being granted. These include pre-commencement conditions agreed by the Appellant. As the application plans have been amended it is necessary to specify the drawings to which this permission relates. It is also necessary to impose conditions relating to finished floor levels and drainage to ensure that the risk of flooding is mitigated. However, with the exception of the conditions specifying compliance with the Flood Risk Assessment, it is enough to require the submission of schemes of drainage for approval, but not to specify what those schemes should include as that is a matter for discussion and agreement at that time. Conditions relating to highway matters are necessary to ensure that safe access, parking and egress is available, but again these can be simplified. In order that the development is satisfactorily assimilated into its surroundings a condition requiring final approval of external materials is necessary and reasonable. For the same reason conditions dealing with outside storage, external lighting and landscaping are necessary. In order that visitors to the holiday park have satisfactory living conditions a condition requiring approval of extraction, ventilation, refrigeration and air conditioning equipment is reasonable and necessary.
19. I do not consider that it is necessary in this case to impose a condition controlling the hours of use of the facilities as they are part of the wider holiday park facilities which are located some distance from residential units. I also do not consider that it is necessary to impose a condition specifying separate foul and surface water drainage as this is controlled by other regulations.

Overall Conclusion

20. The Appellant has carried out adequate and proportionate sequential testing in relation to town centre uses, and has shown that there are benefits from the proposal which outweigh any potential for flooding of the site. Any flood risk can be managed. As a result, and for the reasons given above I conclude that the appeal should be allowed subject to the imposition of appropriate conditions.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - D/00/1 Rev A – location plan
 - D/00/2 – existing site layout plan
 - D/00/3 – existing plans and elevations
 - D/0/02 Rev D – proposed re-development plan
 - D/0/3 Rev E – proposed site layout plan
 - D/0/5 Rev B – proposed elevations
- 3) No development shall commence until details and samples of the materials to be used in the construction of the external surfaces, including windows and doors, of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples.
- 4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No development shall take place until full details of the finished levels of all parts of the site, including the floor levels of all buildings, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until details of any proposed external lighting scheme in connection with the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved prior to first occupation of the buildings.
- 8) The proposed development shall be implemented in strict accordance with 'Phase 1 Flood Risk Assessment (FRA) (Ref: 2892; Final v1.1; dated 14 July 2017) prepared by Ambiental and the developer must ensure all mitigation measures will be completed and maintained for the lifetime of the development, summarised as follows:
 - New FFLs set at no less than 4.73m AOD;
 - New raised walkways affording access to the new retail outlets set at a level of 4.68m AOD;

- Wiring and electrical services brought down from ceilings on the ground floor if practicable;
 - Back flow prevention (non-return valves) installed on any foul water drainage system;
 - Rail type barriers installed around the perimeter of the parking facilities to mitigate against floating hazards without impeding the flow of water;
 - Subscribe to the Environment Agency Flood Warning Service, ensuring that this is made available to all site users, and;
 - Formulate an evacuation plan to be implemented in the event of a warning of extreme weather and/or flooding.
- 9) No development shall take place until details of the design and implementation of an appropriate foul drainage scheme have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full before first occupation of the buildings hereby permitted and shall be retained, managed and maintained in accordance with the approved scheme thereafter.
- 10) No development shall take place until details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of the buildings hereby permitted and shall be retained, managed and maintained in accordance with the approved scheme thereafter.
- 11) No development shall take place until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted to and approved in writing by the local planning authority. The approved management and maintenance plan shall be implemented in accordance with the approved details prior to first occupation of the buildings hereby permitted and shall be retained, managed and maintained in accordance with the approved plan thereafter.
- 12) No development shall take place until a scheme for the implementation of highway improvements, including the provision, surfacing and management of parking and manoeuvring areas, has been submitted to and approved in writing by the local planning authority. The buildings hereby permitted shall not be first occupied until the highway improvements have been implemented in accordance with the approved scheme, and the improvements and management of the scheme shall thereafter be retained.
- 13) The buildings hereby permitted shall not be first occupied until cycle parking has been implemented in accordance with details to be submitted to and approved in writing by the local planning authority.
- 14) Before the buildings hereby permitted are first occupied, details of a scheme for the installation of equipment for extraction, ventilation, refrigeration and air conditioning to be installed in the buildings hereby permitted shall be submitted to and approved in writing by the local planning authority. The details shall include odour and noise control measures. All equipment installed as part of the approved scheme shall

thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.

- 15) There shall be no outside storage of goods or equipment in connection with the use of the buildings hereby permitted.

APPEARANCES

FOR THE APPELLANT:

Ms S Clover	Of Counsel
Mr C Weetman BA(Hons) DMS	CW Planning Solutions Ltd
MRTPI	
Mr T Carr	Carr Faulkner Associates Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mrs H Leamey MA(Hons)	Senior Planning Officer, West Lancashire Borough Council
Miss E Woollacott BA(Hons)	Planning Appeals Officer, West Lancashire Borough Council
DipTP MSc MRTPI	
Mr D Owens MIET IEng	Principal Engineer, West Lancashire Borough Council
BEng(Hons)Civil Engineering	

DOCUMENTS

- 1 Agreed flood mitigation condition
- 2 Plan of parish boundaries