



Appeal Decision

Hearing held on 14 August 2019

Site visit made on 14 August 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2019

Appeal Ref: APP/C1625/W/18/3213459

Chambers Farm, Naas Lane, Brookthorpe, Gloucester GL4 0XA

- 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 Mr C Ratcliffe against the decision of Stroud District Council.
 - The application Ref S.17/2544/FUL, dated 7 November 2017, was refused by notice dated 30 August 2018.
 - The development proposed was described as: Change of use of land for leisure uses and the formation of ancillary facilities including fishing lakes, a camping ground and a pet cemetery.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use of land for a leisure use comprising fishing lakes, at Chambers Farm, Naas Lane, Brookthorpe, Gloucester GL4 0XA, in accordance with the terms of the application, Ref S.17/2544/FUL, dated 7 November 2017, subject to the conditions in the Schedule at the end of this Decision.

Application for Costs

2. At the Hearing an application for costs was made by Mr C Ratcliffe against Stroud District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Before the Council decided the application the development proposed was amended. As a result the description of development changed. At the Hearing the appellant confirmed the description used by the Council on its decision notice is correct and so I have used the original description in the heading above and the agreed revised description in my formal decision.
4. The drawing numbers were agreed by the main parties at the Hearing and these are reflected in condition 2 of the Schedule of Conditions below. A separate camping use, pet cemetery and southern vehicular access are no longer proposed.
5. Since the application was submitted to the Council the National Planning Policy Framework (the Framework) has been revised. Both main parties have had an opportunity to comment on any relevant implications for the appeal and any comments made have been taken into account in my reasoning.

Main Issues

6. The main issues, agreed with the main parties at the Hearing, are:

- whether the proposal conflicts with the Council's strategy for the location of tourist development,
- whether the proposal is in a suitable location having regard to its accessibility to facilities and services, and
- the effect of the proposal on the living conditions of local residents with particular regard to noise and disturbance.

Reasons

Tourist Development

7. The appeal site is in the countryside outside of the settlement boundary. The Council's decision notice draws my attention to Policies CP15(2) and EI10 of the Stroud District Local Plan 2015 (the Local Plan). Policy CP15(2) states that, in order to protect the separate identity of settlements and the quality of the countryside (including its built and natural heritage), proposals outside identified settlement development limits will not be permitted except where it is essential to be located there in order to promote public enjoyment of the countryside and support the rural economy through employment, sport, leisure and tourism.
8. Policy EI10 states that tourist development, including attractions and tourist accommodation, will be encouraged and supported inside settlement development limits, subject to a sequential assessment. I have not been provided with a definition of what constitutes tourist development in this case. However, at the Hearing the Council indicated tourist development is aimed at a catchment beyond the existing locality. The proposal includes provision for anglers to camp on site and the appellant explained that anglers may travel significant distances for opportunities to fish. On this basis I consider the proposal would be a tourist development to at least some extent.
9. The Council has not raised any concerns about the effect of the development on the identity of settlements or on the quality of the countryside and so I am not satisfied Policy CP15(2) requires that it must be demonstrated that it is essential for this development to be located where it is proposed. Nevertheless, the construction of fishing lakes is reliant on the availability of land which has a source of fresh running water. This is a significant constraint on where a proposal of this nature may be located. So whilst the appeal site is outside of any settlement boundary its location is significantly affected by an essential need for a source of fresh running water.
10. At the Hearing a site closer to the conurbation of Gloucester, at Whaddon, was suggested as an alternative location for the appeal development. But limited information has been provided to satisfy me this is a suitable and available alternative site and even if it is, it is so close to the appeal site that I am not satisfied that it would be significantly sequentially preferable to the appeal site. At the Hearing the Council suggested existing lakes could be used for the development instead of the appeal site. But in the absence of any further details I give this suggestion limited weight.

11. There is a dispute between the main parties over whether the viability of the development must be demonstrated. Nevertheless, the appellant has provided information which they consider demonstrates the development is viable and the Council disputes this information. Based on the wording of Policy CP15(2) and its supporting text, I am not satisfied this policy requires that the viability of the development must be demonstrated. Even if I am wrong in this regard, and the proposed enterprise were to fail, either during construction or after completion, limited information has been provided to satisfy me that any significant harm would occur as a result.
12. Were the lakes proposed to be abandoned I see no reason why nature would not take its course and either the lakes would dry up and vegetation would grow back on the land or the lakes could be put to another use. At the Hearing it was established that a materially different or more intensive use would require planning permission and so the Council would retain control over the matter. Moreover, as was discussed at the Hearing, other powers could be drawn on, for example those under section 215 of the above Act, to require the proper maintenance of land, if necessary.
13. In respect of Policy EI10, the policy seeks that proposals carefully consider the need to protect and enhance landscapes and environmentally sensitive sites, whilst aiming to provide adequate facilities, enhancing enjoyment and improving the financial viability of the attraction. The Council has not raised any concerns about the effect of the completed development on the landscape, or its effect on environmentally sensitive sites or the adequacy of the facilities to be provided. The reference in this policy to financial viability does not state that viability of the proposal must be demonstrated and so I find no conflict with Policy EI10 in these respects.
14. In exceptional cases, Policy EI10 may support development in lower tier settlements subject to 5 specific criteria. The appeal site is not in a lower tier settlement but at the Hearing the Council indicated these criteria should be considered if there are no other sites for the development. These criteria are:
 - i. there is evidence that the facilities are in conjunction with a particular countryside attraction and it is demonstrated how the proposal could assist rural regeneration and the well being of communities,
 - ii. no suitable alternative existing buildings or sites exist which are available for re-use or a countryside location is essential for the proposed use,
 - iii. the scale, design and use of the proposal is compatible with its wider landscape setting and would not detract from any acknowledged biodiversity interest, character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas,
 - iv. the building is served by adequate access and infrastructure, and
 - v. the site has reasonable access to local services.
15. The wording of Policy EI10, particularly by its use of the words 'facilities' and 'buildings/building', indicates the policy does not envisage the type of development proposed in this case. Even if this is only as a result of the drafting of this policy, I am satisfied this proposal is a low impact development

which does not conflict with the above criteria. Specifically, in respect of criteria (i) it would operate in conjunction with an existing facility at Harescombe. In respect of criteria (ii) there is limited evidence of alternative sites. In respect of criteria (iii) it would not harm the character or appearance of the area, the Council does not object on the basis of any effect on biodiversity interests nor do I consider it would harm the amenities of residential areas. In respect of criteria (iv) there is no objection from the Council to the access to the site or on the basis of infrastructure. In respect of criterion (v) I am satisfied there is reasonable access and I address this as a separate main issue below.

16. On this main issue I conclude that, given the very specific nature of this proposal, it would not conflict significantly with the Council's strategy for the location of tourist development. Accordingly, considering all of the above points, I am satisfied there is no conflict with Policies CP15(2) or EI10 of the Local Plan.

Facilities and Services

17. The Council considers the site has no access to facilities or services, such as a shop or pub, and is very poorly served by public transport. Welfare facilities would be provided on site and, as I saw at my site visit, the site is within walking distance of Brookthorpe via off-road footpaths. In Brookthorpe there is a pub and bus services which at the Hearing the Council advised runs half hourly at peak commuter times and hourly at other times.
18. As was discussed at the Hearing and as I saw on my visit to the appellant's existing facility at Harescombe, anglers travel with a significant amount of equipment, some of which is expensive or cumbersome, including rods, furniture and umbrellas. As such, it is less likely that users of the proposal would access it by public transport, diminishing the need for the site to be served by public transport.
19. Even if I am wrong in this regard, I am satisfied that the appeal site is relatively well-served by public transport. I say this given its countryside location (constrained by the availability of a source of fresh running water) and given users of the facility (travelling to what is essentially an outdoor pursuit) would likely be well-equipped to navigate the countryside footpaths needed to access the site.
20. Whilst I have seen no evidence of a shop being easily accessible from the site, for the same reasons, I am satisfied users of the facility would be well prepared in this regard and take provisions with them. I conclude on this main issue the proposal is in a suitable location having regard to its accessibility to facilities and services and would not conflict with Policies EI10 or CP15(2) in this regard.

Living Conditions

21. The Council is concerned that the development would result in an unacceptable level of noise and disturbance for local residents. As I saw on my site visit, the site is surrounded by hedgerows as are the roads and footpaths to access the site. These hedgerows shield the nearest dwellings from noise and disturbance from the site and the accesses to it to at least some extent. This would not significantly change as a result of the development.
22. From the site I could not see the nearest dwellings and the Council confirmed they are in Brookthorpe. As such they are a considerable distance from the

site. On my visit to the appellant's existing facility at Harescombe, I observed anglers using the lakes either alone or in pairs. Based on my observations I am satisfied the proposal does not involve activities which are noisy or disturbing.

23. At the Hearing fishermen were described as 'lonely people' and it was suggested that people who enjoy angling do so at least in part to escape from other people. It is not the case therefore that the activity is undertaken by groups, who may be noisier than those fishing alone or in pairs. Furthermore, it became apparent at the Hearing that it is in the interests of everyone using such a facility to remain quiet so as not to scare away the fish they are trying to catch. I find this a compelling factor in satisfying me that noise and disturbance would be self-enforcing.
24. Taking all of the above points into account I conclude the proposal would not harm the living conditions of local residents, even at night when there may be less background noise from the nearby M5. Accordingly it would not conflict with Policy ES3 of the Local Plan which states that permission will not be granted for any development which would be likely to lead to or result in an unacceptable level of noise or general disturbance.

Other Matters

25. Concerns have been raised by interested parties that the proposal would harm highway safety, result in a loss of habitat and present a significant flooding risk. The Council did not object to the development on any of these grounds and based on the information provided I see no reason to either. Representations received also suggest that the proposal would result in the loss of an orchard, the development of public rights of way and that no consultation was carried out but I have seen no evidence of any of these matters.

Conditions and Conclusion

26. The Council has suggested conditions which I have considered taking account of advice in the Framework and Planning Practice Guidance (PPG). As a result I have amended some of them for consistency, enforceability, clarity and reasonableness and combined or not imposed others.
27. In addition to an implementation condition, it is necessary to impose a condition specifying the relevant plans to provide certainty. The Council has suggested a condition requiring the development to be carried out in all respects. However, I am not satisfied this complies with the PPG¹ and all of the tests for conditions so I have not imposed it.
28. Approval of a hard and soft landscaping scheme is necessary in the interests of the character and appearance of the area and to ensure the development is accessible including for people with disabilities, as is a separate condition to ensure that the soft landscaping is implemented. This is required prior to commencement as this affects the initial stage of development. A condition controlling details of the car parking is also necessary to ensure disabled access as well as to ensure provision is made for electric vehicles in the interests of sustainability.
29. Conditions requiring clear visibility splays either side of the access and the proper construction of the access with a width sufficient for vehicles to enter

¹ Use of planning conditions. Paragraph: 005 Reference ID:21a-005-20190723

and exit simultaneously, are necessary in the interests of highway safety as is a condition requiring a Construction Method Statement (CMS). As the access road and CMS affect the initial stage of development these are required prior to commencement.

30. Subject to these conditions, for the reasons given above the appeal should succeed.

L Perkins

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: Location Plan, 1230-01 Rev F, 1230-02 Rev C, 1230-03 Rev B, 1230-04, 1230-05, 1230-10 Rev C, 1230-D1, 1230-D2 and 20101/101 Rev A.
- 3) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) hard surfacing materials including pathways from the car park to the lakes;
 - ii) identification of the existing vegetation proposed for retention;
 - iii) a planting plan showing the precise species and location of each new tree and shrub;
 - iv) details of tree planting pits and staking;
 - v) details of rabbit protection; and
 - vi) details of mulching and the weeding/watering regime.

The hard landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use.

- 4) 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 commencement of the use 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.
- 5) Notwithstanding condition 2 and drawing 20101/101 Rev A the northern vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 80m distant in both directions (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.26m and 2.0m at the Y point above the adjacent carriageway level.
- 6) Notwithstanding condition 2 and drawing 20101/101 Rev A the access hereby approved shall not be brought into use until it has been widened to allow two-way simultaneous access and egress, with inter-visible internal turning and passing space from the site access according to details which shall have first been submitted to and approved by the local planning authority.

- 7) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
- i) the number and type of vehicles;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction; and
 - vii) delivery and construction working hours.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 8) Notwithstanding condition 2 the use hereby permitted shall not commence until a minimum of 1 disabled parking space per car park and 1 per 10 standard spaces where greater, plus an adaptable electric vehicle charging space within the main car park according to details which shall first have been submitted to and approved by the local planning authority have been made available for use in addition to the parking shown on plan 1230-03 Rev B. The parking and turning spaces shall thereafter be maintained for such purposes.
- 9) No development shall commence (other than required by this condition) until the first 10m of the proposed access road, including the junction with the existing public road, has been completed to at least binder course level.

APPEARANCES

FOR THE APPELLANT:

Nigel Cant	Nigel Cant Planning
Jemma Phillips	
Nigel Phillips	
Andy Price	Harescombe Fisheries
Felicity Wright	David James & Partners Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Laurence Corbett	Stroud District Council
Robert Fox	Fox Rural
BSc (Hons) FAAV ARICS	
John Longmuir	Stroud District Council