



Appeal Decisions

Site visit made on 18 June 2019

by M Seaton DipTP MRTPI

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

Decision date: 10 September 2019

Appeal A Ref: APP/D2510/W/19/3224726

Old Chequers Inn, Croft Lane, Croft, Lincolnshire, PE24 4PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by George Bateman and Son Limited against the decision of East Lindsey District Council.
 - The application Ref S/039/02173/18, dated 19 October 2018, was refused by notice dated 3 January 2019.
 - The application sought planning permission for the change of use of existing land to use for the siting of 10no. static caravans (total increase of 9no.) installation of 2no. bio treatment plants, change of use of agricultural land to amenity space, extension to existing access track and provision of car parking, in accordance with amended plan, amended Flood Risk Assessment and amended Historic Impact Assessment which were received by the Local Planning Authority from the applicant's agent on 4th and 8th September 2014, without complying with a condition attached to planning permission Ref S/039/01345/14, dated 3 June 2015.
 - The condition in dispute is No. 7 which states that:
The caravans hereby permitted shall only be occupied between 15th March and 31st October (or the following Sunday, if half term extends into November) in any one year.
 - The reason given for the condition is:
To reduce the risk and impact of flooding by ensuring that the site is not occupied during the period of highest flood risk. This condition is imposed in accordance with the requirements of Paragraph 103 of the National Planning Policy Framework and Policy T16 of the East Lindsey Local Plan Alteration 1999.
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Appeal B Ref: APP/D2510/W/19/3224728

Old Chequers Inn, Croft Lane, Croft, Lincolnshire, PE24 4PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by George Bateman and Son Limited against the decision of East Lindsey District Council.
- The application Ref S/039/02148/18, dated 19 October 2018, was refused by notice dated 3 January 2019.
- The application sought planning permission for a change of use of land for the siting of 13no. static caravans to provide an extension to the existing caravan site, without complying with a condition attached to planning permission Ref S/039/02359/15, dated 8 March 2016.
- The condition in dispute is No. 7 which states that:
The caravans hereby permitted shall only be occupied between 15th March and 31st October (or the following Sunday, if half term extends into November) in any one year.

- The reason given for the condition is:
To reduce the risk and impact of flooding by ensuring that the site is not occupied during the period of highest flood risk. This condition is imposed in accordance with the requirements of paragraph 103 of the National Planning Policy Framework and Policy T16 of the East Lindsey Local Plan Alteration 1999.
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Decision

1. **Appeal A** is dismissed.
2. **Appeal B** is dismissed.

Application for costs

3. An application for costs was made by George Bateman and Son Limited against East Lindsey District Council. This application is the subject of a separate Decision.

Background and Main Issue

4. The appeal sites comprise two parcels of land set to the north of the existing Old Chequers Sunset Brook Caravan Park (the caravan park), which is accessed from a point adjacent and to the rear of the Grade II listed Old Chequers Inn Public House. The appeal sites occupy a location within the open countryside.
5. It is highlighted that the caravan park was originally granted a Certificate of Lawful Development during the 1970's, with extensions to the original caravan park approved in 2015 (LPA. Ref. S/039/01345/14) for 10no. static caravans and other works, and in 2016 (LPA. Ref. S/039/02359/15) for 13no. static caravans. Both of the planning permissions included a condition restricting occupation of the site to between 15th March and 31st October (or the following Sunday, if half term extends into November) in any one year. A similar restriction is not in place for the original area of the caravan park.
6. The appellant has indicated that the restriction acts as a barrier to maintaining a successful holiday park, with part of the site having to be closed during the restricted period. It is further highlighted that a nearby facility, *The Rod and Line Country Park*, benefitted in 2017 from a modified planning condition permitting extended occupation throughout the year with the exception of the period 7th January and the last day of February for a period of 20 years. The appellant has also indicated the receipt of pre-application advice in advance of the adoption of the current Development Plan which was consistent with the permission given to the nearby facility. Whilst the appellant had initially sought all-year round opening, the wording of the proposed varied condition was altered during the course of the planning application to reflect the approved timings for the nearby facility.
7. The reasoning given for the conditions is to reduce the risk and impact of flooding by ensuring that the site is not occupied during the period of highest flood risk. I therefore consider the main issue to be whether the conditions are reasonable or necessary in the interests of safeguarding the development from the risk of flooding.

Reasons

8. The Development Plan is identified as comprising the East Lindsey Local Plan Core Strategy (the Local Plan), which was adopted in July 2018. The reasons

- for refusal highlight Strategic Policy SP19 of the Local Plan as being of relevance in this instance as it specifically addresses holiday accommodation.
9. Policy SP19(7) indicates that the occupancy of caravans, log cabins, chalets, camping and touring sites will be limited to between 15th March and 31st October in any one year (or the following Sunday if the 31st does not fall on a Sunday). The only exception in this policy does not apply in this case.
 10. I note that paragraph 10.28 of the reasoned justification to the policy sets out the basis for the restriction as being evidence which shows the period November to March as carrying the highest risk of flood events with caravans classed as vulnerable development in this regard. The Council has indicated that this conclusion has been informed by the technical evidence and Strategic Flood Risk Assessment (SFRA) prepared and submitted as part of the Local Plan Examination. As a consequence all caravan sites in the coastal zone in the high risk areas will only be supported with an occupancy condition.
 11. The caravan park and the appeal sites are identified as being located within the coastal zone and are therefore in a high-risk area. In both instances, the extensions to the caravan park approved in 2015 and 2016 resulted in net increases in the number of caravans on the wider site. In this regard, the restrictive condition accords with the requirements of Policy SP19(7).
 12. With reference to the requirements noted at paragraph 160 of the National Planning Policy Framework (the Framework), the Council accepts that the proposals have passed the sequential test and the first part of the exception test as the development would provide wider sustainability benefits to the community that outweigh flood risk. However, the second part of the exception test requires a demonstration that *the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall*.
 13. The appellant has submitted a site-specific Flood Risk Assessment (FRA) which concludes that whilst the site lies within High Probability Zone 3a without defences with a less than 1 in 100 annual probability (0.5%), the site does benefit from properly maintained defences to a 1 in 200 standard providing tidal flooding protection. The FRA also refers to the Environment Agency Risk of Flooding from Rivers and Sea Map as showing the appeal sites as being at low risk of flooding of between 1 in 1000 (0.1%) and 1 in 100 (1%), which takes into account the effect of flood defences.
 14. In assessing the submitted FRA, the Environment Agency has expressed satisfaction that the study is appropriate to the scale, nature and location of the appeal site, and demonstrates that the site would not be impacted on by flood water should a breach of tidal defences occur in the present day (2006) scenario envisaged by their Flood Hazard Mapping for the coast produced in 2009. Furthermore, having regard to current climate change predictions the assessment is considered to be valid until approximately 2050. However, the Environment Agency does caveat its conclusions by setting out that its response covers the exception test relating to flood resilient and resistant development only and does not override the Council's conclusions in respect of compliance with Local Plan policies.
 15. The appellant accepts that planning applications should be determined in accordance with the Development Plan unless material considerations indicate

otherwise. I have carefully considered the appellant's contention that the conclusions of the FRA and absence of an objection from the Environment Agency represent a compelling material consideration of sufficient weight to overcome the conflict with the Development Plan.

16. I note the appellant's reference to the wording of the Submission Version of the Local Plan, which referred to the time-limiting of development for a period of 20 years in areas shown to not be impacted by flood water in the current day breach scenario. However, I note that this exception ultimately was not incorporated in the adopted Local Plan due to a lack of clarity from the maps provided within the SFRA and the absence of proposals to rectify this issue.
17. There is no evidence before me to indicate that the issues of clarity with the SFRA have now been resolved. Furthermore, and being mindful of the submissions within the FRA, there does not appear to have been a fundamental change in the available technical flood risk data, whether new or updated, beyond that which would therefore have been available to the Inspector at the time of the examination of the Local Plan. Additionally, I have not been provided with any update or details of the work highlighted as in its infancy within the Inspectors Report as being undertaken between the Council and tourist industry to consider mitigation measures which might allow restrictions to be relaxed.
18. In this regard, I am not persuaded that there has been any material change in circumstances from which to conclude that the Policy restriction within the Local Plan is out-of-date. In the absence of this I note that there is no mechanism within the Development Plan to consider an exception to the policy of development restraint for holiday accommodation within high-risk areas and the coastal zone. Therefore, despite the absence of an objection from the Environment Agency related to flood resilience and resistance, I do not consider that sufficient justification has been presented to allow a departure from the policy concerning holiday accommodation in the Local Plan.
19. The appellant refers to the Planning Practice Guidance (PPG) in respect of the question '*What development will be appropriate in a Coastal Change Management Area?*' (Reference ID: 7-073-20140306) and also the Council's response that the appeal sites are not located within such an area. The appellant refers to the PPG situation where time limited approvals relating to flood risk could be granted, there is no suggestion that the approach should be applied across a wider range of circumstances. Consequently, I have not given any weight to this reference.
20. I also note that the appellant has suggested that an existing Flood Warning and Evacuation Plan already exists for the appeal site. However, this document has not been provided as part of the evidence. although there is no reason why the existing evacuation plan could not be adapted to encompass the additional caravans, and in any event the Council has not raised this as a specific matter of concern.
21. Further to the above issues related to tidal flood risk, as a consequence of a significant fluvial flood event involving the failure of the maintained banks of the nearby River Steeping in June 2019, further comments were requested from the parties on the implications of this event. However, beyond demonstrating that breaches of flood defences can happen, these events do not

have any significant bearing on the merits of the proposals which relate entirely to the impact of coastal flooding.

22. The consultation response from the Environment Agency represents a material consideration which needs to be weighed in the balance in this instance. However, although the absence of any objection on specific matters related to flood resilience and resistance provides some moderate weight in support of the proposal, there is no evidence that the Examining Inspector's expressed concerns related to limited time-period consents for holiday accommodation in the high-risk coastal zone have been addressed. In the context of the adopted Local Plan, this does therefore considerably limit the weight to be attached to the Environment Agency comments.
23. The proposals do not therefore accord with Policy SP19 of the Local Plan, which seeks to ensure that the occupation of proposed holiday accommodation avoids the period November to March when the risk of tidal inundation is most likely within the coastal zone. Despite the acknowledged presence of flood defences, the evidence presented does not lead me to the conclusion that the principle of extending the period of occupation of the approved caravans would be acceptable or without increased risk, and therefore a precautionary stance is most appropriate.
24. I therefore regard the respective conditions to be reasonable and necessary in the interests of safeguarding the development from the risk of flooding.

Other Matters

25. The Old Chequer's Inn is a Grade II listed building dating from the early to mid-18th Century with later additions and features. However, whilst I am satisfied that the caravan park including the appeal sites would be within the setting of the listed building, planning permission has already been approved for the extensions to the caravan park. With the appeal proposals merely addressing the terms of occupation of the approved caravans, I am satisfied there would be no further impact on the setting or significance of the heritage asset.

Conclusion

26. I agree with the appellant that the potential for extended occupation of the caravans on the appeal sites would provide some limited economic benefits to the local area in terms of additional expenditure from occupiers and would support the local tourist industry. However, for the reasons set out, the proposals would not accord with the Development Plan, and I do not find the benefits of the proposal would outweigh the identified harm.
27. For the reasons set out above, the appeals are dismissed.

M Seaton

INSPECTOR