
Appeal Decision

Site visit made on 17 September 2019

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/G2713/W/19/3233253

Land to south of South View, Hutton Rudby, Cleveland

- 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 R Readman against the decision of Hambleton District Council.
 - The application Ref 18/01565/FUL, dated 26 June 2018, was refused by notice dated 4 June 2019.
 - The development proposed is the construction of an all weather paddock and the erection of a stock fence.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the proposal would preserve or enhance the character or appearance of the Hutton Rudby Conservation Area; and (ii) the effect of the proposal on the risk of flooding, in particular concerning the occupiers of Leven Valley.

Reasons

Conservation Area

3. The part of the appeal site where the proposed all-weather paddock would be located is enclosed by stock fencing and is used as a grass paddock. It forms part of a large field, where further paddock type use is also in evidence. Beyond the fenced paddock, the land slopes down to a river. At the opposite end of the site there is a modest sized stables building, along with a manure store and an associated hardstanding area.
4. More broadly, the site falls within a large swathe of open land, trees and vegetation on either side of the river which has an attractive undeveloped countryside-like appearance. It appreciably contributes to the significance of the conservation area as part of the river corridor and is in contrast to the more built up parts towards the historic centre of the village and the roads which lead to it. More modern housing to the north of the site falls outside of the conservation area.
5. The incursion of the proposed equestrian paddock onto the site would markedly reduce its contribution to the significance of the conservation area as largely

- open and undeveloped land. It would result in it having a more formalised appearance, in particular with its variance in surface material compared to the surrounding grass and vegetation. In addition, its scale would not be insignificant as it would measure some 40 by 25 metres (m) and this would further draw attention to that it would appear uncharacteristic.
6. The current equine use of the land, which has changed from what is understood to be a former agricultural use, has managed to maintain the open character. The grassland areas have largely been retained, and the stables and the associated structures are located discretely. This is broadly consistent with the findings of the Planning Officer Report that I have been referred to by the appellant that concerns the approval of the stables on the site.
 7. However, the effect of the proposed all-weather paddock would be far more apparent as it would encroach into the grassland areas, which includes the fenced paddock, and well past the existing built facilities. With the harm that would result, I also consider it unlikely that such a proposal would be supported if a conservation area appraisal was prepared and adopted by the Council.
 8. The trees, landform and buildings would filter broader views of the proposed all-weather paddock. Nevertheless, this would not address the visibility that would be apparent closer to the site and the detrimental effect on the open character. Where built development has incrementally taken place over the years in the conservation area, this is most apparent in and around the centre of the village and does not notably inform the prevailing character of the area nearest the site.
 9. Taking these matters together, in accordance with the statutory duty pursuant to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Act) that I am bound to consider, I conclude that the proposal would not preserve or enhance the character or appearance of the conservation area. This attracts significant weight in my decision. In coming to this view, I have considered the totality of the heritage evidence before me, including the appellant's own conservation area appraisal.
 10. Similarly, the proposal would not comply with Policy CP16 of the Hambleton Local Development Framework Core Strategy (2007) (CS) and with Policy DP28 of the Development Policies (2008) (DP) which afford protection to natural and man-made assets, and state that conservation of the historic heritage will be ensured by identifying, protecting and enhancing conservation areas, amongst other matters.
 11. For the purposes of paragraphs 195 to 196 of the National Planning Policy Framework (Framework), less than substantial harm would arise to a designated heritage asset. Paragraph 196 goes on to state that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
 12. In relation to the public benefits, there would be an agreement for members of the Cleveland Hunt Pony Club to use the proposed all-weather paddock. Such a facility is said not to be currently available for use. It is understood that it would be available free of charge, and there are members in the vicinity of the

village who would benefit. I have had regard to the correspondence from the Pony Club that has been submitted.

13. I am, however, mindful that under paragraph 193 of the Framework that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
14. Whilst I do not dispute the need for the facility from the Pony Club's perspective, I consider that it is not a public benefit, including securing the optimum viable use, that would outweigh the less than substantial harm. This is due to the loss of the contribution to the asset's significance that would arise with the erosion of the character that would result from the proposal.
15. The proposal is also intended to improve the suitability of the ground for horses after inclement weather. Beyond being a benefit to the Pony Club, which I have already considered above, this would seem to be largely a personal benefit to the appellant in terms of the use of the facility. This would also not outweigh the less than substantial harm.

Flood Risk

16. Leven Valley is a fairly isolated residential property which lies to the south west of the site. Due to the falling levels towards the river, it is at a lower land level than where the proposed all-weather paddock would be located. The difference in the levels would be greater under the proposal because the all-weather surface would be built up in places, compared to the existing levels.
17. The potential effect as regards flood risk results from surface water run-off from the proposal to impact on Leven Valley. As a consequence, the flood zones that I have been referred to by the parties are of limited relevance because this zonal classification of flood risk is largely concerned with river flooding. The land in between the proposed all-weather paddock and up to and including Leven Valley is, though, at a high risk of surface water flooding according to the Environment Agency surface water flooding extract that the appellant has provided.
18. The proposed all-weather paddock would be of a permeable construction. It would be made of sand and fibre on a permeable membrane over a layer of limestone on a geotextile membrane. As such, the potential for additional surface water run off would be limited compared to the existing grass paddock, even with the fall in levels towards Leven Valley.
19. During the course of the planning application, the appellant also offered to install a herringbone field drainage system and use the fall of the land to allow a carrier drain to fall into a soakaway. No substantive information has been submitted that establishes whether such a system would be effective and there is an absence of percolation testing results to consider. If the drainage of the proposed all-weather paddock was reliant on this system, this would cause me concern in relation to how it may impact on Leven Valley. However, as the all-weather paddock would be of a permeable construction, this would not be the case.

20. I conclude that the effect of the proposal on the risk of flooding, in particular concerning the occupiers of Leven Valley, would not be unacceptable. Therefore, it would comply with Policy CP1 of the CS, and with Policies DP1 and DP43 of the DP which are concerned with the natural drainage of surface water, protecting amenity and that development proposals will not be permitted where they would have an adverse effect on watercourses or increase the risk of flooding elsewhere. It would also accord with the Framework where it states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Other Matters

21. The proposal lies approximately 250m across the remainder of the field from the Grade I listed Church of All Saints and Grade II listed Hutton Bridge. The open land around the river contributes towards the setting of these listed buildings, in particular as it allows their historical significance to be revealed and appreciated. This is considerably more apparent, though, nearest these assets and less so in relation to where the proposed all-weather paddock would be located due to the distance and as the views would be of a more limited nature with the roadside vegetation. As regards section 66(1) of the Act, the proposal would preserve the settings of these listed buildings. This does not address my concerns, though, in respect of the conservation area.
22. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision.

Conclusion

23. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the less than substantial harm caused by the proposal to a designated heritage asset. The proposal would not preserve or enhance the character or appearance of the conservation area. This matter is decisive. The proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. Hence, the appeal should be dismissed.

Darren Hendley

INSPECTOR