



Appeal Decision

Site visit made on 16 September 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2019

Appeal Ref: APP/C1435/W/18/3217263

Bewl Water, Bewlbridge Lane, Cousley Wood, Wadhurst, TN3 8JH

- 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 Bewl Events and Waterparks Ltd against Wealden District Council.
 - The application Ref: WD/2017/0210/MAJ, is dated 27 January 2017.
 - The development proposed is described as 'Construction of visitor accommodation in the form of 58 self-contained earth lodges with associated plant building and refuse enclosure'.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's Statement of Case indicates that it has concerns as to whether the development proposed would be acceptable with regards local and national planning policy; its effect on the High Weald Area of Outstanding Natural Beauty (AONB); on the highway network and on the integrity of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). These have defined the main issues.

Main Issues

3. The main issues are:
 - whether the development proposed would be acceptable having regard to local and national planning policy; and,
 - its effect on the character and appearance of the AONB; and,
 - its effect on the safety of the highway network; and,
 - its effect on the integrity of the Ashdown Forest SPA and SAC.

Reasons

Location

4. The appeal site comprises a parcel of land on the shores of Bewl Water, a reservoir open to the public and which provides access to visitors including anglers, sailing club members, ramblers and cyclists. Bewl Water and its visitor centre are open to the public throughout the year.

5. The development proposed would construct 58 two-bed, self-contained earth lodges on an area of land previously used for boat storage and a biomass facility which would serve all of the units, located on an adjacent, existing coach park. The units would be two storeys in height but partially set into the slope of the land, arranged in six rows running down the gently sloping site. The blocks of earth lodges would be graded into the natural slope and grass and wild flower planting would cover the embankments at each end and the roofs of the units to blend them into the landscape.
6. It is common ground that the Bewl Water, including the appeal site is located in the countryside and within the AONB. Residential development in the immediate vicinity is sporadic, with the main settlements of Lamberhurst, Wadhurst and Ticehurst being some distance away.
7. The Council's policies GD2 and saved policy DC17 of the Wealden Local Plan (LP) (1998) seek to resist new housing development outside of development boundaries and in this respect are consistent with National Planning Policy Framework (2019) (the Framework). The Council has referred to policies in its emerging Local Plan which is at an early stage of preparation and therefore is attached little weight. Bewl Water falls outside of the defined settlement boundary in the LP and is not identified for development in the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan (2013) (CS).
8. The Council has concerns that the future occupiers of the earth lodges would be reliant on private cars to access everyday needs located beyond Bewl Water during their stay. Based on my site visit, the site has a café and bistro but there are no other services and facilities present which would provide for everyday needs. Consequently, the future occupiers would need to travel to nearby settlements to access everyday needs and based on the evidence submitted as a result of the lack of alternative modes of transport and lack of public transport links, there would be a reliance on private cars. I note the appellant's reference to the inclusion of electric vehicle charging points, personalised travel plans and Paragraph 84 of the Framework which recognises that there is a need to identify sites in rural areas that are not well served by public transport but also the need to ensure that development is sensitive to its surroundings.
9. Policy DC17 (LP), seeks to resist development outside of the defined settlement boundaries unless it meets exception criteria. In this case the development proposed would not provide accommodation essential to the needs of agriculture or forestry; provide affordable housing; involve the conversion of an agricultural building; replace or convert an existing dwelling or provides accommodation for the travelling community. The exception criteria would therefore not provide justification for development outside of the development boundaries in this case.
10. Whilst I note that the Council is supportive of the development of tourism facilities as set out in its Policy TM1 (LP), Policy TM4 strongly resists the development of holiday villages in the AONB. The appellant disputes that Policy TM4 (LP) applies as the development proposed has moved away from a traditional holiday village concept and in any case the policy is dated. Further, the appellant states that the Council's emerging Local Plan refers to the need to increase visitor accommodation and associated spend with short break stays

being a primary target market. I also note that the development proposed would create 5 full time jobs.

11. However, the appellant states that the proposed earth lodges would involve stays of one or more nights by visitors involved in the recreational and sporting activities at Bewl Water and by tourists more generally. On that basis, I am satisfied that Policy TM4 would apply in this case as it would provide overnight visitor accommodation and the criteria set out in the policy are relevant in this case.
12. Criterion (1) of Policy TM4 (LP) requires that need for the development proposed should be demonstrated. I have had regard to the appellants submitted evidence¹ which draws on research from Visit Britain, and research undertaken by the Council for its Destination Management Plan (2017). However, whilst this demonstrates that trends indicate that tourism plays an important part in the economy and there is a general need for visitor accommodation in the local area, it does not explicitly focus on the need for the specific type of accommodation which the development proposes. Moreover, whilst it states that the development proposed would provide an acceptable return on investment, based on a projected average annual occupancy of 70%, no further evidence is submitted with regards the ways in which that need would be satisfied through effective marketing and management once the development is operational. It is therefore not possible to make a thorough assessment of whether there is an identified need for the development proposed and whether that need is capable of being satisfied and on that basis criterion (1) would not be met.
13. The appeal site does not restore a damaged or derelict site and therefore Criterion (2) is not met. Criterion (3) relates to scale and size of the development proposed and its compatibility with its location. Given the parameters of the appeal site, insufficient justification has been provided to support the scale and number of earth lodges proposed. As a result, the development proposed would give the impression that as much development as possible has been shoe-horned onto the appeal site and due to the quantum of earth lodges proposed would not appear to be compatible with its surroundings. The intensification and scale of use on the site, compared to previous boat storage and the surrounding uses, would as a result make it incompatible with its location and therefore criterion (3) would not be met.
14. Criterion (4) seeks to ensure that the development proposed would not have an intrusive effect on the landscape and would be well screened by existing vegetation. On the basis of the Landscape Visual Impact Assessment (LVIA)² submitted by the appellant, the development proposed would have moderate visual impacts in year 1, reducing to minor impacts in year 15 following the completion of development. Whilst the appeal site has the benefit of mature trees and vegetation along some of its boundaries, the visual impact would nevertheless be significant and would not be sufficiently mitigated by the landscaping proposed which is a requirement of Criterion (5). This would not protect or conserve the landscape and would be to the detriment of the AONB. As a result, Criterion (4) and (5) would not be met.

¹ Appellant Statement of Case: The Background Business Considerations

² Bewl Water Landscape and Visual Impact Assessment December 2016 – Allen Scott

15. I conclude that the development would constitute development outside of the defined development boundaries, resulting in a dependency by the future occupiers on a private car to access services and facilities and would not meet the criteria for development in the countryside or the Council's policies which support the development of the visitor economy. As a result, the development proposed would be contrary to policies GD2 and DC17 and TM4 of the LP and Policy WCS6 of the CSLP and the Framework, which when read together seek to resist development outside of development boundaries and which results in development which takes into account and has no adverse impact on its surroundings.

AONB

16. The landscape characteristics of the Bewl Water and the area surrounding, is referred to in the Wealden Landscape and Settlement Character Assessment and the East Sussex County Landscape Assessment (2010). The appeal site is partly surrounded by open countryside which is typical of the High Weald AONB, comprising medieval landscape of wooded, rolling hills studded with sandstone outcrops; small, irregular-shaped fields; scattered farmsteads; ancient routeways and the prominent landscape created by the large expanse of reservoir. The appeal site has a tranquil setting, with mature trees and hedgerows along its boundaries with Bewlbridge Lane and a grassed area alongside the nearby visitor centre. Between the appeal site and the reservoir is an area of Ancient Woodland, beyond which is located the boathouse which encompasses a bistro and facilities for sailing and anglers with access to boating jetties. The appeal site therefore makes an important contribution to the open landscape and intrinsic beauty of the AONB in this locality.
17. The Framework attaches great weight to conserving and enhancing the landscape and natural beauty of AONB's which have the highest status of protection in relation to these issues. Paragraph 172 of the Framework states that planning permission should be refused for major developments other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.
18. With regards the exceptional circumstances it has already been concluded that the need for the development proposed has not been demonstrated and further, there is no supporting evidence to demonstrate that there would be wider benefits to the local economy, which might have been expected for a development of this kind.
19. It is acknowledged that the development proposed is linked to the recreational and sporting activities available at Bewl Water and therefore there would be no feasible alternatives outside of the AONB. However, with regards the effect on the environment and landscape, the impact of the development proposed would alter its natural beauty characteristics significantly. The scale and quantum of earth lodges proposed results in an urbanising effect much different to the previous boat storage use which would not appear to be out of place in the context of its location and Bewl Water's recreational use. The appeal site's current open appearance, which contributes greatly to the significance of the openness and countryside characteristic of the surrounding area would be eroded to the detriment of the landscape quality and the tranquil setting of its surroundings.

20. I note that the appellant's LVIA³ indicates that there would be a substantial and permanent change in the character of the appeal site on completion of the development proposed and that there would continue to be adverse visual effects from views of the site from the surrounding area. Whilst the LVIA indicates that the visual effects change from moderate to minor over a period of time, the fact remains that the mitigation proposed would not help to protect the landscape of this part of the AONB in the short term which would have a significant harmful effect and to which the Framework attaches great weight.
21. I conclude that the development proposed would have a significant harmful effect on the appeal site and the surrounding landscape and would be contrary to Policy EN6 of the LP and Paragraph 172 of the Framework, which when read together seek to conserve and enhance the landscape and intrinsic natural beauty of the AONB, to which the highest status of protection is attached.

Highways Safety

22. The Council and interested parties have concerns with regards the compatibility of the development proposed with the local highway network. The appellant has submitted as evidence an Assessment of Travel Implications which indicates that the development proposed would generate approximately 30 vehicle movements per day on average, representing 5% of the current average daily journey totals during the summer months.
23. I note that the Highways Authority did not object to the development proposed, subject to changes to the existing access arrangements with Bewlbridge Lane and alterations to the internal road layout. I note the appellants willingness to accept conditions, had the appeal been allowed, to ensure changes to the access arrangements and the internal road layout as proposed by the Highways Authority. On that basis I am satisfied that concerns with regards access arrangements, internal circulation and the effect of vehicle movements from the development proposed and its compatibility with other highway users could have been resolved by imposing conditions, had the appeal been allowed.

Ashdown Forest

24. Ashdown Forest contains a large area of lowland heath and includes both European dry heath and North Atlantic wet heath. The designation reflects the importance of its habitats and species, which include vulnerable bird species. The Forest is also designated as a Site of Special Scientific Interest and the conservation objectives of both the SPA and SAC aim to ensure that the integrity of the designated sites is maintained or restored as appropriate. An Appropriate Assessment should seek to establish whether or not alone or in combination with other projects there would be any adverse effects on site integrity, in view of the site's conservation objectives. Where adverse effects cannot be avoided then mitigation measures are introduced to remove or reduce the effects to the level of non-significance.
25. There are two key impacts on the SPA and SAC from recreational pressure and air quality. With regards to recreational pressures, the appeal site is beyond the zone of influence around the Forest and the Council states that combination impacts on recreational distance are unlikely.

³ Bewl Water Landscape and Visual Impact Assessment December 2016 – Allen Scott

26. However, the Council has concerns regards the effect of the proposal on the integrity of the Ashdown Forest SAC with regard to atmospheric pollution and nitrogen deposition, as a result of an increase in vehicle trips on roads near to it or through it. Under the precautionary principle in the Habitats Directive as embodied in the Habitats Regulations it is necessary to ensure that development, either alone or in combination with other plans or projects, will only be permitted if it can be concluded that it will not affect the integrity of the SAC.
27. The appellant states that the development proposed would result in a net reduction of vehicle movements compared to the previous boat yard use and was willing to enter into an agreement that would prevent boat storage taking place elsewhere. However, the Council argues that since the appeal was lodged detailed transport modelling has been undertaken for its emerging Local Plan and that trip offsetting should only be considered in relation to trips across the SAC. Moreover, the appellant states that Natural England's (NE) Regulation 19 consultation response to the Council's emerging Local Plan sets out that it was satisfied that there would be no adverse effect on the integrity of the Ashdown Forest or any other Special Areas of Conservation, from air quality impacts including atmospheric nitrogen pollution. Further, NE set out that this conclusion could be reached without mitigation measures being needed under the specific requirements of the Habitats Regulations.
28. In accordance with the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) and in the light of the outcome of the High Court judgement *People over Wind v Coilette Teoranta*, as the competent authority, I would be required to carry out an appropriate assessment to address any effect of the development proposed on the SAC, if the appeal were to be allowed. However, as the appeal is dismissed on the main issues with regards local and national planning policy and harm to the AONB, there would be no pathway for the development proposed to have a detrimental effect on the SAC and I am not required to consider undertaking an appropriate assessment any further.

Planning Balance

29. The Council does not dispute that it is able to demonstrate that it has a five-year supply of housing land and whilst it states that its emerging plan will address the shortfall, given that it is at an early stage of preparation little weight is attached to it. As a result, Paragraph 11 d) of the Framework, states that where the most important policies for determining the application are out of date, there should be a presumption in favour of development, unless it meets the tests set out in the paragraph.
30. With respect to economic, social and environmental benefits. In terms of the economic benefits I note that 5 full time jobs would be created, and whilst it is likely that there would be additional spend in the local economy the full extent of the economic benefits have not been quantified. There would also be some short-term benefits during the construction phase and I therefore attach moderate weight to the economic benefits. There would be social benefits in that occupiers of the earth lodges would have access to open space and recreational facilities which would make an important contribution to health and well-being, to which I attach limited weight.
31. However, even if I were to conclude that the Council is not able to demonstrate a five-year supply of housing land and therefore its policies are out of date, the

adverse environmental impact on the AONB to which I attach the greatest weight would not be significantly and demonstrably outweighed by the benefits when assessed against the Framework as a whole. Consequently Paragraph 11d)(i) footnote 6 of the Framework would apply and for the forgoing reasons, the appeal proposals would not amount to sustainable development for which there is a presumption in favour of and therefore the so-called tilted balance would not be engaged.

Other Matters

32. I have regard to the wide range of concerns of interested parties which can be summarised as damage to semi-ancient woodland; the effect of a 24-hour destination; security issues; loss of sailing club; increase in traffic flows on surrounding highways; noise; impact on local businesses; viability; commercialisation of a tranquil area; effect on sporting and recreational use of the reservoir and all other matters raised. However, as the appeal is dismissed on matters relating to the main issues, I have not pursued these matters further.

Conclusion

33. For the reasons set out above, the appeal is dismissed.

Paul Wookey

INSPECTOR