



Appeal Decision

Site visit made on 1 July 2020

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2020

Appeal Ref: APP/P2935/W/20/3251152

The Black Lough, Alnwick Moor, Edlingham, Northumberland NE66 2JQ

- 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 David Shaw against the decision of Northumberland County Council.
 - The application Ref 19/00974/FUL, dated 20 March 2019, was refused by notice dated 4 December 2019.
 - The development proposed is change of use from agriculture to a 5 unit leisure development and associated ground works as part of a farm diversification.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council is preparing a new local plan (Northumberland Local Plan Regulation 19 Publication Draft Local Plan 29 May 2019), but given the Plan is not at an advanced stage I afford its policies limited weight in this appeal.

Main Issues

3. The main issues are:
 - Whether the appeal site is a sustainable location for rural tourism, having regard to national and local planning policies concerning development in the countryside;
 - the effect of the proposal on the intrinsic character and beauty of the countryside;
 - the effect of the proposal on highway safety; and
 - the effect of the proposal on biodiversity, with particular regard to great crested newts.

Reasons

Location

4. Policy S1 of the Alnwick District Council Core Strategy (CS) sets out the spatial strategy and settlement hierarchy for the area. In this context, there is no dispute between the parties that the proposal lies outside of any settlement and is within the open countryside.

5. CS Policy S10 generally requires new tourism development to be in or adjacent to settlements. Tourism development in the open countryside is to be considered against Policy S14 of the CS. Policy S14 includes a number of requirements including that the development should be sustainable in the context of the criteria of CS Policy S3 and essential to support farming or other countryside activity, promote recreation, support sustainable communities or support the conservation and enhancement of the countryside. The sustainability criteria of CS Policy S3 includes the need for the development to be accessible by public transport and modes of transport other than the private car, although some flexibility is allowed where environmental, economic or social benefits would clearly outweigh sustainability shortcomings, subject to mitigation or compensatory measures to offset any negative impacts.
6. My attention is also drawn to paragraph 84 of the National Planning Policy Framework (the Framework), which recognises that sites to meet local business needs in rural areas may have to be found beyond existing settlements and in locations that are not well served by public transport. However, paragraph 84 also states that in such circumstances it will be important to ensure that, among other things, development exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport), and that sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist. I therefore consider that the relevant CS policies broadly reflect the provisions of the Framework in relation to supporting a prosperous rural economy as well as the sustainable location of development.
7. In this case, the site is located in a very rural area, physically isolated from any settlement. It is even some distance from the highway. The nearest settlement is Edlingham, which I am informed is over 2km away. However, there are minimal facilities and visitor attractions in this settlement and in any event, it is not easily reached from the site. The larger settlement of Alnwick is much further away. I have not been provided with evidence that the site is served by public transport, or has good walking or cycling opportunities in the vicinity. Whilst not all guests would wish to leave the site during their stay, those that do would therefore have to travel some distance to access visitor attractions, leisure opportunities, as well as other services and facilities, and in all likelihood would be reliant on private car travel to do so. Consequently, I find that the site is in an unsustainable location in the context of the relevant Policies of the CS and the Framework, and there are no mitigation or compensatory measures to offset this.
8. In reasoning the above I have had regard to the appellant's comments on The Northumberland Destination Management Plan 2015-2020, The Strategy for Northumberland Economic Growth, and the Northumberland Tourism Business Barometer Data 2018. It is clear that the visitor economy is one of the most important sectors in Northumberland, with rural areas making a significant contribution to the economy of the area. However, whilst I can appreciate why the countryside surroundings of the appeal site would offer a desirable place of retreat for visitors, an isolated countryside location is not a prerequisite of providing visitor accommodation. Furthermore, due to the few services in the surrounding area, support for local services and communities would be a limited benefit in respect of this particular location. I see no reason why similar accommodation benefitting the rural economy could not be in a more

sustainable location, within a settlement boundary or within easier access of services and facilities by a choice of transport modes.

9. I conclude, on this issue, that the appeal site is not a sustainable location for rural tourism, having regard to local and national planning policy concerning development in the countryside. The proposal would therefore be contrary to Policies S1, S3, S10 and S14 of the CS in respect of the sustainable location of tourism development in the open countryside. In this respect, it would also be contrary to paragraphs 83, 84 and Chapter 9 of the Framework when taken as a whole.

Intrinsic character and beauty of the countryside

10. Although not subject to any formal landscape designation, the area is eminently rural in character and the water body (the Black Lough) and open undulating pastureland add positively and distinctively to the surrounding undeveloped landscape.
11. The shepherd huts would be moveable and would have a traditional design with a somewhat rustic appearance. Sheep would continue to graze the land within the site. Nonetheless, five shepherd huts together with the toilet/shower block, parking areas, access works and the associated presence of vehicles and people, would materially detract from the aforementioned distinctive and positive characteristics. Colour treatment of the structures would not be sufficient to overcome this harm.
12. I have had careful regard to the appellant's Landscape and Visual Assessment¹. I accept that the distance from roads and footpaths, coupled with some screening from the surrounding topography, mean that the landscape harm would be limited in the wider sense. However, for the reasons above, there would be a harmful urbanising effect on the eminently rural and mainly open landscape at the site, as well as on its general tranquillity. I am also mindful that even if the effects of the proposal are localised, incrementally, such effects would be significantly harmful to the intrinsic character and beauty of the wider countryside.
13. I conclude, on this issue, that the proposal would have an unacceptable effect on the character and appearance of the site and surroundings, and in turn, on the intrinsic character and beauty of the countryside. The proposal would therefore be contrary to CS Policies S3, S13 and S14, where they seek to ensure that development does not have significant adverse effects on the environment and protects and enhances the distinctive landscape character of the district. It would also be contrary to paragraph 170 of the Framework, which states that decisions should contribute and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Highway safety

14. The proposal would utilise an existing vehicular access on the eastern side of the B6341, which is subject to a 60mph speed limit at the appeal site.

¹ By Elite Ecology, dated April 2018

15. The development would be small in scale, but nonetheless, would increase the number of vehicle trips to and from the site, particularly given the lack of realistic alternatives to car travel.
16. The appellant carried out existing traffic counts, but they do not indicate vehicle speeds necessary to establish 85th percentile speeds in the vicinity of the site. The position of the access is on a curve in the road, and in a dip. My impression was that traffic coming downhill from both directions travels quickly past the site.
17. The Highway Authority advises that visibility splays of 2.4m x 215m is required in both directions to safely accommodate traffic associated with the proposal. I see no reason to come to a different conclusion. The visibility splays drawing submitted with the application indicates visibility of only 130m in both directions and is therefore substantially below the necessary requirements to achieve a safe access for the development.
18. The appellant suggests that the sightlines may be improved by clearing some of the dense roadside vegetation which currently obstructs visibility right up to the road edge. However, there is no evidence that this would achieve the required visibility splays, and in any event, the vegetation in the highway verge is outside of the appellant's control. Moreover, the topography and road alignment are also significant factors in obstructing visibility of the oncoming traffic in both directions.
19. I have noted the proposals to widen the access, improve its surfacing, provide warning signs and control entry and exit times. Whilst I accept these measures could lead to some improvement of the existing situation and may help to control the flow of traffic to and from the site, the fundamental matter of achieving safe visibility at the access for the proposed development would not be addressed. Even if there is no record of road accidents associated with the site access, it does not automatically mean that it is inherently safe from a highway safety perspective and is not a persuasive justification to increase the potential for an accident in the future.
20. The appellant refers to a nearby planning permission², where it is suggested that the Highway Authority took a more liberal approach to similar highway safety issues. However, it seems to me that the development, as well as the highway alignment and visibility splay requirements are not the same, such that meaningful comparisons cannot reasonably be drawn between the cases. Accordingly, I give this matter limited weight in my assessment.
21. I conclude, that due to the inadequate visibility at the site access, the proposal would increase the risk of accidents at this point on the B6341 and thus would have an unacceptable impact on highway safety. This is contrary to CS Policy S11 in so far as it requires that traffic generated by the development does not damage the road safety of the area. It is also contrary to paragraphs 108 and 109 of the Framework in terms of achieving safe and suitable access, and preventing unacceptable impacts on highway safety.

Biodiversity

22. The Council's refusal reason refers to "areas designated as of international, national and local importance", but whilst the officer's delegated report notes

² LPA ref: 16/02778/FUL

the site is within the Impact Risk Zone for the Berwick and Beansley Moors SSSI, no impacts on this designated site have been identified and there is no objection from Natural England in this regard. Furthermore, there is no indication that the site is within the zone of influence of coastal designated sites. Accordingly, I have no basis to find harm to any internationally and nationally designated sites of nature conservation.

23. Rather, it seems that the primary concern is in relation to the potential effect on great crested newts (GCN). GCN are protected by law and their presence is a material consideration in a proposal where there is a reasonable likelihood of a protected species being present and affected.
24. The Black Lough and adjacent habitat has potential for GCN. The preliminary ecological appraisal³ submitted with the application recommends a further eDNA survey for GCN to establish whether the species is present in the Black Lough. Subsequent information suggests that the water may have been stocked with fish, which could make the Black Lough unsuitable for GCN. However, this is not supported by further survey work and no eDNA survey has been carried out.
25. Circular 06/2005 advises that surveys should be carried out before planning permission is granted. Consequently, it indicates that surveys should only be required by condition in exceptional circumstances. I do not consider this would be an exceptional circumstance and in this regard, it is not possible to be certain that the proposal would not result in significant harm to GCN, a protected species, or that a suitable method of mitigation could be achieved.
26. In conclusion, on the basis of the information before me, it has not been sufficiently demonstrated that the proposal would not significantly harm biodiversity, with particular regard to GCN. The proposal would therefore be contrary to CS Policies S3 and S12, which seek to protect and enhance the biodiversity of the district. It would also be contrary to paragraph 175 of the Framework, which seeks to protect and enhance sites of biodiversity value, minimise impacts on and providing net gains for biodiversity.

Other Matters

27. The appellant states that the farming business on the site would be in jeopardy without the alternative income revenue from the proposal. However, I have not been provided with any substantive evidence of the viability, or otherwise of an existing farming business to support these claims. Moreover, even if I were to accept this is a diversification scheme, I have found significant harms, so I give this matter limited weight.
28. Reference has been made to several other planning permissions locally for 'tourism related' developments, including shepherds huts in rural locations. I can understand why these cases have been referred to and I appreciate the importance of consistency in decision making, but I am required to consider the appeal proposal on its own merits, having regard to the specific site circumstances and evidence that is before me. As set out above, I have identified harm that is very specific to the appeal site and scheme. Consequently, whilst I have had regard to the referenced Council decisions, they carry limited weight in my assessment.

³ By Elite Ecology, March 2018

29. I have noted the presence of the nearby Grade II listed marker stones. I have a statutory duty to consider the effect of the proposal on the designated heritage assets and I am mindful of the content of the Framework in relation to heritage assets. However, I have no reason to find that the setting of the listed buildings and their significance would be adversely affected. Similarly, I have no reason to find that the nearby Edlingham Beehive Pillbox, which I am advised is a non-designated heritage asset, would be adversely affected. I note that the Council did not identify any harm in this respect.
30. The appellant's comments regarding the lack of engagement from the Council during the application, particularly on highways issues, are noted. However, this does not alter my assessment of the planning merits of the appeal.

Conclusion

31. I have found that the proposal would not be in a sustainable location and would cause harm to the intrinsic character and beauty of the countryside, highway safety and biodiversity. Accordingly, notwithstanding the potential economic benefits, it would not be a sustainable form of rural tourism.
32. The proposal therefore conflicts with the development plan as a whole and there are no other considerations, including the Framework, that outweigh the conflict. These matters provide a clear justification for finding the scheme to be unacceptable and therefore the appeal should be dismissed.

A Caines

INSPECTOR