



Appeal Decision

Site visit made on 1 September 2020

by R W Allen B.Sc PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th September 2020

Appeal Ref: APP/R2520/W/20/3250667

Priory Lakes, Priory Road, Ruskington NG34 9DL

- 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 Park Evolution Ltd against the decision of North Kesteven District Council.
 - The application Ref 19/1378/FUL, dated 6 November 2019, was refused by notice dated 5 March 2020.
 - The development proposed is the change of use of land at Priory Lakes for creation of holiday park including stationing of 35 lodges and one unit for office / reception and creation of pedestrian / cycle path to link to Priory Road.
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Decision

1. The appeal is allowed and planning permission is granted in respect to the change of use of land for the creation of a holiday park including stationing of 35 lodges and one unit for office / reception at land at Priory Lakes, Priory Road, Ruskington NG34 9DL, in accordance with the terms of the application, Ref 19/1378/FUL, dated 6 November 2019, subject to the conditions set out in the Schedule of Conditions at the end of this decision.
2. In respect to the creation of pedestrian / cycle path to link to Priory Road, the appeal is dismissed.

Main Issue

3. The main issue is whether or not pedestrian and cycle traffic associated with the proposed development would be able to safely navigate between the appeal site and the settlement of Ruskington.

Reasons

4. The principle of the appeal for 35 holiday lodges on this site is not contested by the Council. I concur; and find the site's rural and peaceful location together with its close proximity to Ruskington, which offers a small but varied array of shops and services, to be a sustainable and an appropriate location as a holiday destination. The matter at hand concerns the safety of future pedestrian and cycle users of the section of Priory Road linking the appeal site to the settlement edge and an existing footway.
5. Priory Road displays all the characteristics of a rural lane. As such, it is relatively narrow and not quite wide enough for two cars to pass in opposite directions without some manoeuvring. There are no public footpaths along the majority of its length. The road is bordered by grass verges with dykes set

- behind, and with dense tree screening particularly on the southern side. The national speed limit applies to the majority of this section of road.
6. One of the appeal drawings before me indicates a proposal for three off-site passing places at various points along Priory Road. This is deemed unacceptable to the Council, which requires a more extensive solution of a continuous 1.5m-wide footpath linking the appeal site to the settlement edge.
 7. The Council's suggests, and not disputed by the appellant, controlling the provision of the highway works through a Grampian-style planning condition. But in order to entertain this, I would need to be reasonably satisfied that the main parties were in some form of general agreement on a scheme, so that such a condition would be capable of being discharged. On the evidence before me, this appears to me to be far from the case. Because the acceptability of such works would be at the discretion of a third party, the Highway Authority, there is a realistic possibility that the condition in question could become impossible to discharge, and the development would as such be prevented from commencing. It would be unreasonable to impose such a condition in such circumstances and it would not meet the tests of the Framework¹.
 8. Moreover, the details of the more extensive solution are not before me. I am thus unable to assess for myself the effect this would have on the character of the rural lane, and I have serious reservations over the likelihood that such an extensive scheme could be undertaken without harm. For these reasons, I cannot consider such a condition here.
 9. I must now consider whether a pedestrian / cycle connection is proportionate and necessary in the first place to make the development acceptable, and it follows that the outcome of the appeal turns on this matter.
 10. I spent approximately two hours here, walking and driving around the site and its surroundings. In that time, I observed very little vehicular traffic using the section of Priory Road. Those vehicles passing me were not driving anywhere near the national speed limit, and it is not hard to understand why. This section of Priory Road is relatively short. The Council states it to be only 380m, and I walked it in just over four minutes. The road has limited medium-range visibility primarily because at both ends, the road bends sharply to a north / south alignment. I observed another shorter bend approximately halfway along the length adjacent to a vehicular access point to The Orchards Park, further impeding visibility. In my judgement, the road conditions are such that travelling this section of road at speed in either direction is not only impractical, but wholly unsafe to attempt.
 11. I also observed a good number of pedestrians and cyclists using this section of the road, but again it could not be said to be particularly busy. All walked on the road itself. When a vehicle arrived, such persons simply moved over to the grass verge or indeed the two vehicular access points along the northern side of the section of road serving The Orchards Park and the sewage treatment works, and the vehicles moved over to ensure a safe distance existed between the two. I observed no circumstances where pedestrians could not safely move out of the way. In the absence of any traffic or accident data to suggest otherwise, I do not find this part of the road to be unsafe or subject to

¹ Paragraph 55 of the National Planning Policy Framework 2019

conflicted between pedestrian, cycle and vehicular traffic. In short, I find no serious extant or obvious safety issues.

12. I am not persuaded that the proposed development would generate the level of pedestrian and cycle traffic that would result in significant increases in daily movements to and from the site to subsequently endanger safety, even at night or at times of inclement weather. The locations of the dykes are, I find, sufficiently distant not to pose a significant risk to safety from unexpected falling.
13. I am also not persuaded that the future users of the proposed development would axiomatically use Priory Road as the natural first choice means of access to the settlement. The Council acknowledges the existence of two PRowS² which exist close to the appeal site and which provide an alternative link into Ruskington. One of the PRowS goes through a poultry farm, and another largely circumvents it. I do not share the Council's assessment that these PRowS would not be used. I find the openness of the PRowS, their natural terrain, and absence of artificial lighting are what defines their appeal. For a holidaymaker who chooses a rural location, walking along such PRowS would be a desirable and sought-after experience. Indeed I find that a hardened, well-lit PRow synonymous with an urban environment would have the complete opposite effect and would be wholly dissuasive.
14. Taking all matters into consideration, I find on the evidence before me that the road conditions as existing do not lead to concerns over conflict and safety between existing pedestrian and vehicular traffic at any time, on what is a relatively short stretch of road. I also find that the proposed development would not generate the quantum of pedestrian traffic to justify the need for a pedestrian / cycle footpath or other highway works to accommodate it.
15. I am content therefore to dismiss these elements of the appeal. However, should the main parties and the Highway Authority subsequently determine that highway improvements are required, I concur with the Council that these are capable of being delivered by other legislation. Therefore neither party is prejudiced by me taking this approach.
16. I concur with the Council in respect to the absence of significant harm caused by all other traffic related matters. I also have no reason to doubt the appellant's assertion that the provision of electric vehicles and charging points would be popularly received from future guests and would be well used. Indeed the provision of the latter may well act as an incentive to prospective holidaymakers with electric vehicles, in the knowledge that the site would be equipped with the necessary charging facilities.
17. I therefore find no conflict against Local Plan³ policies LP1, LP7, LP13 and LP55. Collectively, these policies support the presumption of sustainable development that contribute and benefit local communities and the local economy and respect local character; support sustainable visitor facilities; require development to contribute to an efficient and safe transport network; support non-residential development in the countryside where the rural location is justified and is sustainably accessible; and require safe pedestrian and cycle access and complement PRow networks. I am satisfied the proposal would

² Public Rights of Way as shown in Appendix 9 of the Council's Statement

³ Central Lincolnshire Local Plan 2017

amount to sustainable development and would comply with the relevant parts of the Framework, notably that which promotes sustainable transport, and the National Design Guidance.

Conditions

18. I have considered the conditions suggested by the Council against the Framework and made changes necessary to comply with those requirements including the removal of tailpieces where I have found that they undermine the condition. I also note that the appellant has given its written acceptance of those conditions which require a discharge of a requirement prior to the development's commencement.
19. I have specified the approved plans so as to provide clarity and certainty as to the scheme approved. For the reason given above, plan TM/781/01 Rev A is struck out as is the suggested condition requiring off-site highway works. Conditions relating to materials and tree planting, maintenance and protection of existing trees are necessary to ensure the appearance of the development would be satisfactory. Because of the location of the proposed development, I am satisfied that conditions relating to a landscape and ecological plan and a lighting plan in respect of bats is necessary in the interests of protection and promotion of biodiversity and wildlife.
20. A condition is necessary to investigate potential contamination in the interests of protecting human health and the water from pollution. A surface water drainage condition is necessary to ensure such measures would be sustainable and adequate without causing harm to flooding. I am satisfied that conditions restricting the use of the site for tourism and the keeping of a register is necessary to ensure it is not permanently occupied as a sole residence.

Conclusion

21. For the reasons set out, I conclude that the appeal is allowed in respect of the change of use of land at Priory Lakes for creation of holiday park, the stationing of 35 lodges and for one unit for office / reception. The remainder of the appeal in respect to the creation of pedestrian and cycle path is dismissed.

R Allen

INSPECTOR

Schedule of Conditions

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Illustrative Plan; TMA/781/02B Location Plan; TM/781/03B Proposed Block Plan; TMA/781/05 Office; Proposed Enclosure Recycling Bins; S5866 CASA DI LUSSO proposed elevations and floor plans; and S5867 DOVECOTE proposed elevations and floor plans.
- 3) No works comprising the siting of a unit of holiday accommodation or the office building hereby approved, shall take place on any part of the site to which any part of this permission relates until samples of the materials to be used in the construction of the external surfaces of the associated units have been submitted to the Local Planning Authority for approval in writing. Development shall only be carried out in accordance with the approved details.
- 4) No development shall take place until full details of all proposed tree planting (including the proposed location, species, size, spacing, proposed times of planting and a scheme for maintenance) have been submitted to the Local Planning Authority for approval in writing. All tree planting and maintenance shall be carried out in full accordance with the approved details.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out within 6 months of the date of first occupation of any unit or the completion of development, whichever is sooner. Any trees, plants or grassed areas which within a period of seven years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size, and species and quality.
- 6) No development shall take place until a scheme for protection of the retained trees/hedgerows (Section 5.5 BS5837 - 2012 - Tree Protection Plan) has been submitted the Local Planning Authority for approval in writing. This scheme shall include:
 - (a) A plan showing details and positions of the ground protection areas;
 - (b) details and position of protection barriers. Protection barriers should be erected prior to each construction phase commencing and shall remain in place, and undamaged for the duration of that phase - these to be retained and maintained until all equipment, machinery and surplus materials have been removed from the site;
 - (c) details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site;
 - (d) details of special engineering required to accommodate the protection of retained tree/hedgerows e.g. in connection with foundations, bridging, water features and surfacing;

- (e) details of working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site;
- (f) details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site;
- (g) details of any scaffolding erection with the root protection areas;
- (h) details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures; and
- (i) details of any proposed changes of ground level within the root protection area as defined to the application site.

All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme.

- 7) No trees, shrubs or hedges within the site, which are shown as being retained on the approved plan shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written approval of the Local Planning Authority. Any works approved shall be carried out in accordance with BS 3998 (Tree Work). If any retained tree is removed, uprooted or destroyed or dies, within a period of 12 months of completion of works, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
- 8) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
 - (a) No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree on or adjacent to the proposal site.
 - (b) No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site.
 - (c) No temporary access within designated Root Protection Areas without the prior written approval of the Local planning Authority.
 - (d) No mixing of cement, dispensing of fuels or chemicals within 10 metres of the tree stem of any retained tree on or adjacent to the application site.
 - (e) No soakaways to be routed within the Root Protections Areas or any retained tree on or adjacent to the application site.
 - (f) No stripping of topsoils, excavations or changing of levels to occur within the Root Protection Areas of any retained tree on or adjacent to the application site.
 - (g) No topsoil, building materials or other to be stored within the Root Protections Areas of any retained tree on or adjacent to the application site.
 - (h) No alterations or variations of the approved works or tree protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

- 9) No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to the Local Planning Authority for approval in writing. The LEMP shall include details of the following: Description and evaluation of features to be created, enhanced and managed to include all the land within the applicant's control as shown on the site plan; extent and location/area of proposed habitat creation and enhancement works on appropriate scale maps and plans; ecological trends and constraints on site that might influence management; ecological aims and objectives and appropriate management regimes to achieve these; prescriptions for management actions, encompassing both the establishment period and long-term requirements; a work schedule, including an annual plan capable of being rolled forward over a 15-year period; details of the body or organisation responsible for implementation of the LEMP; and ongoing monitoring and remedial measures. Once approved, the plan will be implemented in accordance with the approved details.
- 10) No development shall take place until a lighting design strategy for bats for the whole site has been submitted to the Local Planning Authority for approval in writing. The strategy shall identify those areas / features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging and proposed new habitats and soft landscaping that can deliver Net Gain in the quality of bat habitats across the site; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using existing and new habitats or having access to their breeding sites and resting places. The development shall be carried out in accordance with the approved details.
- 11) Before any part of the development hereby permitted is occupied / brought into use, a verification report confirming that remedial works have been completed shall have been submitted to the Local Planning Authority for approval in writing. The report should confirm the findings of site investigation, confirm that any necessary remedial works have been completed, and demonstrate that imported and / or material left in situ is free from contamination, If during redevelopment contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to the Local Planning Authority for approval in writing. The scheme of remediation shall thereafter be maintained in accordance with the approved scheme.
- 12) No development other than works of site clearance shall commence until a scheme of surface water drainage provision has been submitted to the Local Planning Authority for approval in writing. Unless such an alternative phasing scheme is agreed in writing, the approved drainage works shall thereafter be completed prior to the completion or occupation of any dwelling / building on site, whichever is the sooner.

- 13) The holiday / visitor accommodation hereby approved shall be occupied for holiday purposes only and shall at no time be occupied as a sole or main place of residence.
- 14) The owners / operators of the development hereby approved shall maintain an up-to-date register of the names, home addresses and dates of occupancy of all persons occupying the holiday / visitor accommodation and shall make this information available at all reasonable times to the Local Planning Authority.