
Appeal Decision

Site visit made on 18 August 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2020

Appeal Ref: APP/B3410/W/20/3253652

Paddock Land to the south of Bullgap House, Bullgap Lane, Stanton, Ashbourne DE6 2BW

- 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 & Mrs S & L Kirkland against the decision of East Staffordshire Borough Council.
 - The application Ref P/2019/00866, dated 10 July 2019, was refused by notice dated 4 March 2020.
 - The development proposed is erection of two Shepherd huts for tourism accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations and is considered not to be EIA development. An Environmental Statement is therefore not required.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for tourism development having regard to the accessibility of services and facilities; and
 - the effect of the proposed development on the Bullgap Farm Local Wildlife Site (LWS) and the Stanton Pastures and Cuckoocliff Valley Site of Special Scientific Interest (SSSI).

Reasons

Whether a suitable location for tourism development

4. The proposal relates to the construction of two shepherd huts for tourism accommodation in a currently vacant parcel of paddock land to the south of the large detached dwelling and its large rear garden at Bull Gap Farm. The farm itself belongs to a small cluster of residential dwellings and agricultural outbuildings that are set within a wider rural landscape. Another farmstead, 'Town End Farm' is located further along Bull Gap Lane which comprises one large farmhouse and several related agricultural buildings. The appeal site is also located outside of any defined settlement boundary. I therefore consider it to be within the open countryside something which both main parties appear to agree on.

5. Policy SP1 of the adopted East Staffordshire Local Plan (2015) (ESLP), requires development proposals to demonstrate sustainable development principles such as them being located on, or with good links to the strategic highway network whilst not harming the character of open countryside and also being located where it would be safe to walk, cycle and travel by public transport between the site, services and community facilities.
6. Policy SP8 of the ESLP restricts development outside of defined settlement boundaries unless it would be for one of a list of clearly defined uses, including the provision of facilities for use by the general public or local community close to an existing settlement which is reasonably accessible on foot, by bicycle or by public transport.
7. Policy SP15 relates specifically to the provision of new tourism, culture and leisure development. It requires that new tourism development be located within existing settlements in the first instance, unless the tourism initiative requires a countryside location/setting or is directly related to a specific tourist destination. It also states that new tourist accommodation outside of any settlement would only be acceptable where it would, amongst other things, have good accessibility to existing infrastructure.
8. Consequently, the proposed tourism development would need to meet the relevant requirements set out within Policies SP1, SP8 and SP15 of the ESLP for it to be acceptable in principle.
9. The appeal site is located approximately 0.8km from Swinscoe and 2km from Stanton, both small rural villages. It is also approximately 3.5km from the larger market town of Ashbourne. From the evidence before me, the existing services and facilities within Swinscoe comprise the Dog and Partridge Inn and the no. 108 bus service running between Ashbourne and Leek. In addition, the village can be accessed from the appeal site location by foot via several local public footpaths. However, the evidence before me does not tell me how frequently the no. 108 bus service runs. Furthermore, whilst the appeal site is located within a reasonable cycling distance to Stanton, I have no evidence before me to show what services are situated there, although given its small size and rural location I consider it likely that these would be limited.
10. As a result, given the limited range of services and facilities in Swinscoe and the likelihood of these also being limited in Stanton, and the rural nature of the area, I consider it likely that people using the proposed huts would need to travel to a larger service centre such as Ashbourne, to obtain their goods and services. Moreover, while I also acknowledge that Swinscoe and Stanton are also within a cycle ride of approximately 10 minutes of the appeal site, not everyone would choose this mode of transport particularly in the darker winter months and at other times where daylight would be limited given the nature of the rural roads that would need to be travelled which are not well lit. Consequently, and being mindful of paragraph 103 of the National Planning Policy Framework (the Framework), I do not consider that the proposed development would reduce the reliance of potential tourists on the private car.
11. Furthermore, whilst paragraph 80 of the Framework attaches significant weight to the need to support economic growth, it is also clear from paragraph 83 that this growth should comprise sustainable development such as sustainable tourism.
12. I acknowledge the Appellants' points that the proposal would be located approximately 12 minutes by car from Dovedale, a key tourist destination within the Peak District National Park, and approximately 13 minutes by car to Alton

Towers, a key national attraction. However, I fail to see how these facts would support the sustainability of the proposal or indeed reduce the reliance of its future occupiers on the private car as a mode of transport. I also fail to see any direct link between the proposal and these tourist destinations.

13. I also acknowledge the Appellants' point that the Staffordshire Hotel and Visitor Accommodation Strategy identifies a need for non-serviced accommodation in the County's rural areas. However, even so, this strategy does not form part of the statutory development plan for the area, the policies of which any proposed development of this kind, in a rural area, would still be obliged to comply with.
14. I note that the proposal would potentially cater for demand for tourist accommodation close to the National Park that would not likely be allowed planning permission within it due to its designation as a nationally protected landscape. However, similar to the above, any proposal for such tourist accommodation would still need to comply with the statutory development plan for the area in any event.
15. Accordingly, taking into account all of the factors discussed above, while I acknowledge that given its nature, the proposal would need to be located within the countryside, I am not satisfied that the appeal site is a suitable location for tourism development. I therefore conclude that the proposed development would fail to meet the requirements of Policies SP1, SP8 and SP15 of the ESLP thereby conflicting with them. It would also conflict with paragraphs 8, 83 and 103 of the Framework which aim to achieve sustainable development, promote it in rural areas and enable sustainable rural tourism, amongst other considerations.

Effect on Local Wildlife Site and SSSI

16. The appeal site is situated within the Bullgap Farm LWS and the proposal would result in the loss of some grassland with other grassed areas having to be appropriately managed if they were to be continuously shortly mown. As referred to in the Appellant's submitted ecological appraisal the site is also within 200 metres of the Stanton Pastures and Cuckoocliff Valley SSSI. Ellishill Brook, which is located adjacent to the appeal site's north-eastern boundary, also flows directly into the SSSI.
17. With regards to the management of biodiversity and the mitigation of any potentially adverse impact the proposal could cause, in support of the appeal scheme in addition to the ecological appraisal the Appellants have also submitted a habitat management plan with an associated map outlining how they would actively manage the appeal site's wildlife. The ecological appraisal also makes several recommendations as to how they could best do this whilst mitigating any potentially adverse impacts including the avoidance of any impacts on Ellishill Brook by complying with the standard Guidance for Pollution Prevention.
18. In addition, details have also been submitted relating to the proposed package sewage treatment plant and its operation. The submitted plans show where the treatment plant would be located within the appeal site and that this would be at least 10 metres from the watercourse which is in accordance with the submitted specifications and operations manual. However, the manual also requires that this type of sewage treatment plant has a percolation area which should also be a minimum of 10 metres from any nearby watercourse¹. No further detail or other substantive evidence has been submitted by the Appellants that show where this percolation area would be in relation to the watercourse close to the appeal site which runs into the nearby SSSI.

¹ See page 2 of the Package Sewage Treatment Plants Installation and Operational Manual.

19. I acknowledge that any potential adverse effect of the proposal on the biodiversity of the LWS and SSSI would not likely be significant, which would appear to be the case given the evidence before me², and that as a result it could be possible for it to be adequately mitigated via the imposition of an appropriately worded condition. However, even so, paragraph 175 b) of the Framework states that development on land within or outside a SSSI which would be likely to have an adverse effect, should not normally be permitted except where the benefits of the development would clearly and demonstrably outweigh both its likely impact on the features that make the site a SSSI and any potential broader impacts on the national network of SSSIs.
20. The Appellant has not submitted any details of their suggested package of enhancement measures or the proposed revised habitat management plan i.e. the potential benefits or indeed details to show they would be delivered. Therefore, I have insufficient evidence before me to reach a conclusion on whether the proposal's potential benefits would clearly and demonstrably outweigh any potential adverse effect it may have on the SSSI.
21. Consequently, whilst I am sympathetic to the Appellants' clear aspirations to manage the biodiversity of the appeal site and acknowledge their commitment to doing so, I cannot be satisfied that the appeal scheme would not have a potential adverse effect on the ecological integrity of the SSSI.
22. I therefore conclude, on this main issue, that the proposed development would conflict with Policy SP29 ELP which seeks to protect, maintain and enhance biodiversity and geodiversity. It would also conflict with paragraph 175 b) of the Framework which has similar aims.

Other Matters

Proximity to Peak District Dales SAC

23. The appeal site is also located within 2.1 kilometres of the Peak District Dales Special Area of Conservation (SAC). The Council have not raised any concerns in relation any potential significant adverse impact on the SAC arising from the proposal and based on the evidence before me and my observations while on site, I have no reason to disagree.

Other similar development proposals

24. I note the Appellants' points with regards to similar development proposals being permitted in the area. However, I do not have all the details of these cases before me or the circumstances which led to those decisions being taken. In any event, I have determined on its own merits. The existence of other similar development proposals in the locality does not outweigh my findings in respect of the main issues above.

Conclusion

25. For the reasons set out above I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR

² SoS EIA screening opinion dated 15 September 2020