



Appeal Decision

Site visit made on 18 August 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2020

Appeal Ref: APP/E2001/W/20/3253586

**Newstead Farm, Tongue Lane, Blacktoft, East Riding of Yorkshire
HU15 2UY**

- 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 Paul Smith against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/01541/PLF, dated 3 May 2019, was refused by notice dated 5 December 2019.
 - The development proposed was originally described as: '1) Erection of five holiday lets; 2) provision of seven caravan/mobile home touring bays; 3) erection of two storey amenities block; 4) extension of fishing lake to become commercial with associated works; 5) upgrading existing field access to highway standards and specifications; 6) access road within site, associated planting and parking areas and 7) foul drainage treatment plant.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the application, the proposal was amended to remove the proposed seven caravan/mobile home touring bays, and it was this revised scheme which the Council determined. I have considered the appeal on the same basis.

Main Issues

3. The main issues are 1) whether the proposal represents a suitable location for tourism development, having regard to local and national policy, the accessibility of local services and facilities and the effect of the proposal on the character and appearance of the area, and 2) whether the proposed development would be acceptable in respect of the risk of flooding.

Reasons

Location and character and appearance

4. The appeal site is located on Tongue Lane within the open countryside and forms part of a wider holding with former farm buildings to the northern end now in use for manufacture of furniture, a re-built dwelling with landscaped garden, and the appeal site itself which contains a small lake surrounded on three sides by a stand of trees with agricultural grassland beyond. Expansive fields spread out beyond the site to the east, south and west.

5. Policy S4 of the East Riding Local Plan Strategy Document (April 2016) (the Local Plan) permits certain forms of development in the countryside, subject to respecting the intrinsic character of their surroundings. Tourism and recreation developments are supported under Policy S4(C)(11). Policy A4 supports appropriately located developments aimed at promoting tourism in the Goole & Humberhead Levels sub area, in which the site lies. These policies are consistent with the National Planning Policy Framework (the Framework) which supports sustainable rural tourism and leisure developments which respect the character of the countryside.¹
6. Policy EC2 of the Local Plan supports tourism developments in the countryside where their scale and cumulative impact is appropriate for the location, and they have a functional need to be located in the countryside, providing existing buildings are re-used where possible. The proposal would not comply with the criteria of Policy EC2, given no existing buildings would be re-used.
7. I recognise that the appellant seeks to make use of the existing lake on the site to form a development based around angling, and the potential advantages of the site for the 'wildlife tourist' are argued. However, there is no existing tourism operation at the site and the evidence does not suggest that the site is particularly rich in biodiversity beyond the fish in the lake. The appellant's wish to extend the lake suggests to me that it is not large enough at present to support the proposed business. Creation of the enlarged lake and other features of the site including mounds would involve significant engineering works and landscaping to transform an area of presently open agricultural grassland. Consequently, whilst the lake provides a starting point for the development, the extent of transformative works required indicates that the proposal could be realised to much the same extent on another site. As such, I am not persuaded that the evidence before me demonstrates that it would be essential for the development to be located at the appeal site, and the proposal would conflict with Policy EC2 in this respect.
8. Furthermore, Policies S1, S2 and S4 seek to promote sustainable patterns of development to address the effects of climate change. Policy EC4 supports development where it is accessible, or can be made accessible, by sustainable modes of transport and addresses its likely transport impact. This approach is reiterated in the Council's Planning for Tourism Accommodation – A Guidance Note for Developers' (March 2011), and reflects the Framework which states that developments should exploit any opportunities to make a location more sustainable, such as improving the scope for access on foot, by cycling or by public transport.²
9. The appeal site would be located some 2.9 km from the centre of Gilberdyke where the nearest facilities and services are located. The appellant argues that the nature of the proposal necessitates a location away from built-up areas. I recognise that the attraction of self-catering lodges often lies in factors such as a quiet environment and proximity to nature, and I accept that occupants may be more willing to walk or cycle longer distances for recreational purposes, such as reaching the Trans Pennine Trail some 3.8km away.
10. However, visitors would still need to access local services, and would have to use Tongue Lane which is a narrow, unlit road without footpaths, mostly wide

¹ Paragraph 83

² Paragraph 84

enough for only one vehicle, necessitating passing places at regular intervals, and which I saw was travelled by large lorries going to and from nearby businesses. To my mind, these road conditions and the distances visitors would have to walk or cycle to reach local services would not encourage use of sustainable modes of transport, but would instead prompt the majority of additional journeys to be taken by the private car. Moreover, the plans indicate parking for at least 20 vehicles, not including any parking adjacent to the lodges themselves. This suggests that non-resident visitors would be able to use the lake for angling, which would add to the volume of traffic generated by the development. The proposal would therefore conflict with the aims of Policies S1, S2, S4 and EC4 to take opportunities to make a location more sustainable.

11. Turning to character and appearance, the proposal would see the existing lake extended to the south to more than twice its present size, with five holiday lodges located around it, four to the side of the extended part and one to the northern side of the existing lake. A two storey amenity block would be located close to the Tongue Lane boundary. An access road and parking areas would extend around the enlarged lake.
12. The existing lake is screened by a U-shaped stand of trees. An established hedgerow runs along Tongue Lane but ends a short distance beyond the proposed location of the lodges, and clear views of the site can be had from the south on Tongue Lane. The lodges would be large structures at some 14m wide, 6.8m deep and 6.6m high and would be located within the area of presently flat, open grassland, where their cumulative massing would create a prominent spread of built form in an area where there presently is none.
13. The surrounding land comprises flat, open farmland with low hedgerows and an absence of significant tree cover. In particular, the land opens out expansively to the south and east of the site due to the absence of roadside hedgerows. Whilst the proposal to screen the southern side of the site with new tree planting would over time reduce the stark presence of the lodges themselves, it would exacerbate the uncharacteristic nature of a wooded lakeside tourism development within a largely open agricultural landscape.
14. Moreover, the two storey amenity block, at some 7.4m high, would form a prominent and isolated feature above the boundary hedgerow on Tongue Lane which would detract from the open, undeveloped character of the lane after it passes Newstead Farm. For these reasons, the proposal would significantly harm the character and appearance of the area in conflict with Policies ENV1 and S4 of the Local Plan, which require proposals to respect the intrinsic character of their surroundings.
15. Taking these considerations together, therefore, I conclude that the proposal would not represent a suitable location for tourism accommodation and would conflict with the aforementioned aims of Policies S1, S2, S4, ENV1, EC2 and EC4 and the stated aims of the Framework.

Flood Risk

16. The site is located within Flood Zone 3 and therefore at the highest risk of flooding. Policy ENV6 of the Local Plan sets out that flood risk will be managed to ensure that development does not result in unacceptable consequences to its users, the wider community, and the environment. The risk of flooding to

- development will be managed by applying a Sequential Test to ensure that development is steered towards areas of lowest risk, as far as possible. This echoes the approach of the Framework and Planning Practice Guidance (PPG).
17. The PPG advises that, in applying the Sequential Test, the aim is to steer new development to Flood Zone 1, these being areas with a low probability of flooding. Only where there are no reasonably available sites in Flood Zone 1 should sites in Flood Zone 2 be considered. If the Sequential Test demonstrates that is not possible for development to be located in zones with a lower risk of flooding the Exception Test may have to be applied.
 18. The PPG sets out that the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed, which may be identified from other Local Plan policies. The Council refers to its Flood Risk Guidance Note (FRGN) which indicates that, for tourism proposals, the relevant Tourism Character Area (TCA) set out in policy EC2 of the Local Plan is the appropriate area of search, in this case the South West and M62/A63 Corridor TCA.
 19. The PPG does not define 'reasonably available sites' but states that a pragmatic approach on the availability of alternatives should be taken. The FRGN defines them as those that meet the functional requirements of the proposed development, at a lower flood risk level. It adds that sites should not be dismissed simply on the basis that they are larger or smaller than the proposed site, that they would not generate the same sustainability benefits, that they have planning permission, or that they are not within the appellant's ownership. The appellant argues such requirements are nonsensical, but applying such parameters appears reasonable to me as sites with identical characteristics are unlikely to be found, and an overly narrow focus on finding a replica of the appeal site may rule out otherwise suitable sites.
 20. The appellant's statement of case recognises that there are sites available which could accommodate a development of the size proposed which are at a lower risk of flooding. However, these sites are not identified and are dismissed by the appellant due to not being on the market, but no evidence is provided to confirm this. The appellant goes on to list nine sites considered as part of the Sequential Test. Crucially, no details are provided as to the Flood Zone in which each is located, and I cannot be certain that they lie in a lower zone than the appeal site.
 21. Moreover, whilst the appellant refers to the search area as being the South West and M62/A63 Corridor, there is little detail provided as to the methodology employed in the search. It appears to have been undertaken via a web search of sites for sale, but a number of these appear not to meet the functional requirements of the proposed development, particularly in respect of size. The limited level of detail provided means it is unclear whether the search extended to the whole of the relevant TCA or whether other sites were found but ruled out for other reasons. The Council suggests there are several windfall sites within the TCA, though details of these have not been provided to me. Overall, on the evidence before me, I am not persuaded that the sites put forward by the appellant represent a robust assessment of potential alternative sites in the area.
 22. I recognise that the Environment Agency has not raised objection to the proposal. I further note the appellant points to the development passing the

Exception Test, to the distance of the site from the Humber estuary and to the incorporation of raised floor levels and places of safety at first floor level to address potential flooding events. However, the PPG is clear that the Exception Test should only be applied following application of the Sequential Test. As I have found the proposal does not accord with the Sequential Test, it matters not whether it would pass the Exception Test, as this alone would not satisfy the requirements of the Framework or PPG.

23. For these reasons, I conclude that it has not been demonstrated that the appeal site is a suitable location for the proposed development having regard to the risk of flooding. Therefore, there would be conflict with Local Plan Policy ENV6, and with the guidance of the Framework, which expect new development to be located in areas of lowest flood risk.

Other Considerations

24. The appellant refers to a fall-back position that the site could be developed with 5 pitches for touring caravans/motorhomes. The exact means by which this could be achieved is not made clear, though it seems the appellant is referring to use of permitted development rights. However, in the absence of evidence, I am unable to establish the certainty of a fall-back position. Even if such a development could be undertaken, motorhomes or caravans would not be of the same size as the proposed lodges, nor would such a fall-back include the expansion of the lake or the amenity building. As such, I do not regard this potential fall-back position as being more harmful than the appeal scheme, and I afford it only limited weight.
25. No objection was raised by the Council in respect of highway safety, living conditions or drainage, subject to recommended conditions. On the evidence before me, I have no reasons to disagree with the Council, although an absence of harm makes these neutral considerations weighing neither for nor against the proposal in the planning balance.

Planning Balance

26. I have found that whilst tourism developments are supported in principle in rural areas under the Local Plan, the proposal would not represent a suitable location due to its poor accessibility by sustainable means of transport, its adverse effect on the character and appearance of the area and its location within an area at risk of flooding, which would result in conflict with the development plan, taken as a whole.
27. In terms of benefits, the proposal would add to the amount and range of tourist accommodation in the area, and I acknowledge the support from a local business owner in this respect. The proposal also would generate social and economic benefits from tourist activity; however, these would be relatively small given the scale of the development, and this benefit would arise regardless of the location chosen. Whilst there would be additional landscaping provided, the potential for biodiversity enhancements, and use of sustainable water and energy measures, the environmental benefits of this would be largely offset by the significant engineering works required to create the development, and the reliance of visitors on the private car, and would constitute limited benefits overall.

28. The conflict with the development plan would not be outweighed by these limited benefits. There are no other material considerations, including the Framework, which indicate that a decision should be made at variance with the development plan.

Conclusion

29. For these reasons, the appeal is dismissed.

K. Savage

INSPECTOR