



Appeal Decision

Site visit made on 14 October 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2020

Appeal Ref: APP/M0933/W/20/3247502

Land at Wadhead Hill, Cooper Lane, Bardsea, Ulverston

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr and Mrs C and N Cox against the decision of South Lakeland District Council.
 - The application Ref SL/2019/0952, dated 26 November 2019, was refused by notice dated 22 January 2020.
 - The development proposed is the installation of commercial holiday let lodges, associated infrastructure and ancillary facilities.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of 6 commercial let lodges, associated infrastructure and ancillary facilities on land at Wadhead Hill, Cooper Lane, Bardsea, Ulverston in accordance with the terms of the application Ref SL/2019/0952, dated 26 November 2019, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - Whether the proposed development would be appropriately located having regard to the need to protect the open countryside; and
 - The effect of the development proposal upon the character and appearance of the area, with particular regard to the coastline and the surrounding landscape.

Reasons

Appropriate Location

3. The appeal site is a broadly semi-circular shaped field located immediately adjacent to the coastline and about 600-700 metres from the village of Bardsea in the southern part of Cumbria. Access is provided from a narrow lane which leads down from the A5087 Coast Road to an industrial / retail estate, a caravan storage facility and a small car park just above the shoreline.
4. The site measures just under 0.3 hectares. It rises in an almost cone-like manner from the landward boundary towards the Wadhead Scar on the coastline by about 5-10 metres. The landward boundary is described by a row of tall, mature deciduous trees. In addition, there is also a semi-circular row of tall, mature trees within the site. Along the inside of the coast boundary there

is an informal permissive footpath and there is a bridleway just beyond the trees defining the crescent-shaped landward boundary.

5. The proposal comprises the erection of 6 holiday lodges. 4 of these would be located in a group on the northern part of the site close to the aforementioned shoreline car park (Nos. 1-4) and the other 2 would be located towards the western part of the site (Nos. 5 and 6). Because part of the site is affected by flood zone the 4 lodges in a group would be on stilts such that they would be raised by about 1-2 metres above ground level. 10 parking spaces would be provided (1 for each lodge and 4 visitor spaces). The walls of the lodges would be made of a walnut coloured wooden composite cladding material and the roofs would be slate-coloured.
6. Planning permission for 2 lodges in the same style on the eastern part of the site was granted by the Council in 2018¹. However, this permission has not been implemented because the modest scale of the scheme would render it financially unviable. A later application on the site for 8 lodges was refused in August 2019.²
7. Council policy as set out in CS1.2 of the South Lakeland Local Development Framework Core Strategy 2010 (CS) seeks to focus most new development within existing towns and villages but allows, exceptionally, for new development in the open countryside where there is an essential need for a rural location.
8. In the context of the proposed lodge facility this policy is complemented by Policy DM18 of the Development Management Policies Development Plan Document 2019 (DPD) which sets out criteria for the development of tourist accommodation. Specifically, these forms of accommodation include caravans, chalets and log cabins as well as other forms of purpose-built tourist accommodation.
9. The policy's purpose is to support proposals for tourist accommodation that are in appropriate locations, are of an appropriate scale and design and that do not have a detrimental impact on their surroundings.
10. The first part of the policy is directed at new sites primarily for temporary and mobile forms of accommodation such as caravans and camping although, including, camping pods and 'similar structures'. These similar structures would include lodges such as those promoted in the application subject to this appeal. Such new sites should be located within, or adjacent to, Principal, Key or Local Service Centres or, failing this, would only be allowed where they are required to facilitate diversification of an agricultural or land-based business.
11. The second part of the policy is directed at proposals for the extension of existing caravan and camping sites. Those proposals which meet the 8 inclusive criteria will be supported.
12. The lack of financial viability of the 2018 permission stems from that scheme's modest size rather than from any obligations entered in to by the Appellant or conditions imposed by the Council. Because the scheme would not be financially viable there have been no steps taken to implement the planning

¹ See ref SL/2018/0202

² See ref SL/2019/0293

- permission granted in 2018. No application has been made to discharge the pre-commencement condition.
13. A decision as to whether to implement a planning permission is within the gift of the beneficiary having regard to normal commercial considerations. It is neither within the Council's jurisdiction nor its responsibility to determine whether a permission should be implemented.
 14. Since the Appellant has chosen not to implement that planning permission the proposal cannot be regarded as the extension of an existing caravan and camping facility. It must, instead, be regarded as a fresh proposal on a new site.
 15. However, the extant planning permission is a material consideration in the determination of this appeal since it shows that the Council has accepted the principle of development on the site within the past 2 or more years, albeit for a scheme smaller than the one subject to this appeal.
 16. Although the DPD had not been adopted at the relevant time, the application was nevertheless still found to be compliant with the Council's broad settlement development strategy contained within CS2.1 of the CS as well as with the now withdrawn Saved Policy T6 of the South Lakeland Local Plan.
 17. The principles of sustainable development and the concomitant desires to reduce emissions were embedded within the then prevailing National Planning Policy Framework 2012 and in the CS. Consequently, since the policy environment has not shifted fundamentally since that decision, I attach a medium degree of weight to this extant planning permission.
 18. The site's adjacency to the coast would mean that the lodges might be used for overnight accommodation by those walking England's Coast Path or heading out along the Bay Cycle Way. These tourist initiatives are likely to have significant economic benefits for the wider area, in particular with an increasing desire for people to avoid travelling overseas due to the Covid-19 pandemic.
 19. Moreover, the spread of the holiday season means that these lodges would be used during autumn and winter. However, the majority of those staying in the lodges would probably be booked in for a week or more and so the availability for single overnight stays by walkers and cyclists is likely to be limited. Nevertheless, whether used for long stay or just overnight, the lodges would provide an economic benefit.
 20. For a reasonably fit person, the lodge park would be about a 10-minute walk away from Bardsea where there is a pub. There are also refreshment facilities available just a short walk along the beach. Ulverston would be about 3-4km away and so probably only accessible conveniently by car. Whilst some visitors would use the lodges as a base for trips to the Lakes and other parts of the region it is also possible that many would focus their activities within the more immediate area including the beach.
 21. Thus, although most visitors would travel to the lodge by motorcar it is not unreasonable to believe that they would not be unduly dependent upon it during their stay. There would also be 2 electrical vehicle charging points on-site.

22. Notwithstanding the above points however, as the development proposal would not be located within or adjacent to a Principal, Key or Local Service Centre, and since it is not being promoted as a means of diversifying an agricultural or other land based rural business, it does not comply with the Council's definition of a sustainable location. It would not need to be located within a rural location. Consequently, it would fail to accord with Policy CS2.1 of the CS and with DM18 of its DPD and, therefore, to this extent is not consistent with the Development Plan.
23. The advice set out at Paragraph 84 of the National Planning Policy Framework (the Framework) does not seem to be directly relevant since it refers to businesses serving the needs of the local community rather than those of wider tourism. The applicability of the advice set out at Paragraph 83 concerning rural tourism shall be considered within the context of the second main issue which I turn to now.

Character and Appearance

24. The site turns its back on the coast and instead faces inland. The village of Bardsea occupies an elevated position looking out across the site to Morcombe Bay beyond. The Appellant's Landscape and Visual Assessment was prepared having regard to guidelines issued by Cumbria County Council (2010) and Natural England (2014). It evaluates the effect of the development proposal from Holy Trinity Church, Bardsea and from the A5087. From both viewpoints the magnitude of change is assessed to be negligible. Lodges 5 and 6 would be visible from the A5087 in winter but there would be no skyline effect and the impact would be correspondingly muted.
25. However, the LVA did not include any assessment of views from the beach, from close to the entrance to the site on Cooper Lane, from the permissive footpath or from the bridleway. The lodges would be around 15 metres in length (including the deck), about 7 metres in width and about 2.5-3 metres in height (excluding the stilts). Lodges 1-4 on the eastern part of the site would sit on stilts of around 1-2 metres in height.
26. The walnut colour of the lodges would provide a considerable degree of camouflage as they would meld in against the backdrop of the mature trees. On sunny days there would be an element of glare from the large, glass doors to the front but this effect would be relatively transient and short lived.
27. However, views of all 6 lodges and parked cars from the beach would be significantly screened in the near future by a proposed native hedgerow to be planted just inside the line of the permissive footpath along the site's coastal boundary. Furthermore, although they would take some time to take proper effect a belt of native trees running east-west would provide additional screening from the south for lodges 5 and 6.
28. When viewed at close quarters from the bottom of Cooper Lane close to the shoreline car park lodges 1-4 would be more conspicuous. There would be some screening provided by the low drystone wall, low shrubs and one or two low trees but it would be limited. However, the lodges themselves would not be garish and would be made of high-quality materials.
29. Moreover, since they would occupy almost the same position as the 2 lodges permitted in 2018 there would be little net-difference in visual effect. Thus,

although the lodges would be visible from this vantage point, they would not be so intrusive as to harm the countryside.

30. Due to the new native hedgerow views of the proposed lodges from the permissive coast path would reduce with the passing of time. Those on the bridleway would see lodges 5 and 6 whose floors would sit about 2 metres above the path. However, this experience would be both relatively brief and unobtrusive due to the colour and the design of the lodges.
31. For the above stated reasons, the proposed development would not harm the character and the appearance of the rural or coastal area. It would, therefore, accord with Policies CS7.6, CS8.4 and CS 8.5 of the CS which seek, respectively, to encourage environmentally sensitive tourism development, protect the area's bio-diversity and conserve and enhance the coastal landscape.
32. Furthermore, it would accord with Policies DM1 and DM2 of the DPD which encourage new development that maintains, protects and promotes the area's environmental assets and which, through its design, responds appropriately to the character and distinctiveness of the locality. Finally, it would accord with Paragraph 83 of the Framework which seeks to encourage sustainable rural tourist and leisure development that respects the character of the countryside.

Other Matters

33. Cooper Lane is a narrow road which provides access to the business park, caravan storage facility and the shoreline car park. The development would result in additional traffic movements, but these would be relatively limited and would not cause any danger to other highway users. There is no evidence to suggest that wildlife would be adversely affected nor that the scheme would be vulnerable to coastal erosion.

Planning Balance

34. The proposed development would not be located within a Principal, Key or Local Service Centre. As such it would not be in an appropriate location. I have also had regard to the other matters raised by third parties.
35. Nevertheless, notwithstanding the above, because the proposal would be relatively small in scale, being just 6 lodges, this non-compliance with policy would not have significant adverse consequences in terms of emissions and other relevant matters on the environment. In coming to this view, I have also given some weight to the fact that the site already has an extant permission for 2 lodges.
36. Furthermore, the proposal would not harm the character or the appearance of the countryside or the coastal location. Consequently, the planning balance is in favour of allowing the development to proceed subject to appropriate conditions.

Conditions and Conclusion

37. In addition to the standard 3-year condition I have, in the interests of certainty and good planning, attached several conditions to protect the appearance of the surrounding area. These conditions require: implementation of the permission in accordance with the approved plans; submission and agreement

of details of the materials to be used; submission and agreement of an Arboricultural Method Statement; submission and agreement of details of hard and soft landscaping; submission and agreement of details of a scheme for the discharge of surface and waste waters; and submission and agreement of details of a lighting scheme. Again, in the interests of certainty I have also attached a condition requiring the means of access to be implemented in accordance with the approved plans.

38. To protect the Morcombe Bay Special Protection Area I have attached conditions requiring preparation and agreement of a Construction Method Statement prior to building commencement, prohibiting occupation during December and January, requiring issuance of a Visitor Pack to all guests explaining the sensitivity of the area and requiring installation of on-site signage requesting dog owners to refrain from visiting Chapel Island.
39. Finally, to protect the local tourist economy and to prevent the lodges being used as a de facto private dwelling, I have imposed a condition preventing permanent occupation by any one individual with a requirement that this be evidenced through a register.
40. For these reasons, having had regard to the evidence before me, the appeal should be allowed.

William Walton

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development to which this permission relates must be begun not later than 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Scale - Location plan – Dwg. No. 1110 - Received 27/11/2019

1:500 scale- Site layout plan – Dwg. No. 1110-300 Rev 3 - Received 27/11/2019

1:500 scale- Planting plan – Dwg. No. 1110-700 Rev 1 - Received 27/11/2019

1:100 scale- Elevations and floor plans – Dwg. No. GA3138-001- C - Received 27/11/2019

1:125 scale- Sections – Dwg. No. 1110-500 Rev 1 - Received 27/11/2019

1:125 scale- Sections – Dwg. No. 1110- 501 Rev 1 - Received 27/11/2019

1:200 scale - Drainage plan – Dwg. No. 218-21-01 Rev P4 - Received 27/11/2019
3. The 6 chalets/lodges shall be sited in accordance with Dwg. No. 1110-300 Rev 3. Any material change to the position of a chalet/lodge in a different location shall only take place following an agreement in writing with the Local Planning Authority.
4. The chalet/lodges hereby permitted shall not be occupied other than as holiday accommodation. They shall not be used at any time as sole and principal residences by any occupants. 2) A register of all occupants of the accommodation hereby approved shall be maintained at all times and shall be made available for inspection by the Local Planning Authority on request. The register shall comprise consecutively numbered pages, which shall be kept in order, and each entry shall contain the name and address of the principal occupier together with the dates of occupation.
5. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out before any part of the development occupied or in accordance with a programme to be agreed in writing with the Local Planning Authority prior to any development commencing. Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.
6. No site clearance, preparatory work or development shall take place until a comprehensive Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall details include levels for the access road to units 5 and 6, and works in proximity to units 2 and 4. Full details of the 'no-dig construction' methods

proposed would also be needed to be agreed, along with underground services (water, sewerage etc.) from units 5 and 6. The tree protection measures shall be carried out as described and approved, and shall be maintained until the development is completed.

7. The lodge development hereby permitted shall not be occupied between 1st December and 31st January in any one year.
8. All occupiers of the lodges shall be given access to a Visitor Pack highlighting the sensitivity of Morecambe Bay Special Protection Area to recreation and giving details of alternative recreational opportunities in the area. Details of the Visitor Pack shall be first submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development.
9. Prior to the first occupation of the development hereby permitted, a visitor sign shall be erected on the site, to provide information about limited access to Chapel Island and advice to dog owners. Details of the sign shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. If the sign becomes faded, damaged, defaced or otherwise illegible it shall be maintained/replaced by the owners of the chalets/lodges.
10. a) No superstructure shall be erected until samples and details of the materials to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. b) Development shall be carried out in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.
11. a) A scheme showing the proposed lighting plan (including all external building lights and car park lighting) for the development shall be submitted to and agreed in writing with the Local Planning Authority prior to development commencing. This shall show the location, number and type of units proposed, their orientation and brightness in lux and proposed hours of operation.
12. a) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for and with particular reference to the nearby Morecambe Bay Special Protection Area: i. the parking of vehicles of site operatives and visitors; ii. loading and unloading of plant and materials; iii. storage of plant and materials used in constructing the development; iv. Measures to control the emission of dust and dirt during construction; v. Measures to minimise noise and light disturbance to birdlife on the on the nearby foreshore and mudflats; and vi. A scheme for recycling / disposing of waste resulting from demolition and construction works.
13. a) The development shall not be occupied until the surface water and sewage disposal works have been provided on the site in accordance with the approved plans and specifications. b) Before any chalet/lodge is occupied /is first brought into use, a validation report (that demonstrates that the drainage scheme has been carried out in accordance with the approved plan) must be submitted to the Local Planning Authority. The approved works shall be retained as such thereafter.

14. The development hereby approved shall not be occupied until the means of vehicular access has been constructed in accordance with the approved plans

END