



Appeal Decision

Site Visit made on 3 November 2020

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2020

Appeal Ref: APP/Y2003/W/20/3257186

Brookside Caravan Park, Stather Road, Burton Upon Stather DN15 9DH

- 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 Chris Barrett (Brookside Caravan Park) against the decision of North Lincolnshire Council.
 - The application Ref PA/2020/276, dated 18 February 2020, was refused by notice dated 15 May 2020.
 - The development proposed is change of use of land to permit the siting of static caravans.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's third reason for refusal refers to 'insufficient information to make an assessment upon the ecological impacts of the development'. A Badger Survey Report dated July 2020 was subsequently submitted with the appeal. As the Council and interested parties had the opportunity to review this, I do not consider that any party has been disadvantaged by its submission, and I have taken it into account in my decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - protected species, specifically badgers;
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.

Reasons

Protected species

4. Badgers and their setts 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.
5. The Badger Survey Report identified an active main badger sett in the woodland on the eastern edge of the appeal site and one of the entrance holes just within the appeal site. The survey also identified several signs of badger

activity on-site and off-site along the interface of the woodland and the caravan park, including badger trails along the eastern edge of the site. At my site visit there were three entrance holes within the appeal site. It is therefore reasonably likely that the appeal site remains in active use by badgers.

6. From the evidence before me, impacts on the badger sett, as well as foraging habitat and commuting routes within the site, would be unavoidable due to the scale and proximity of the development to the eastern edge of the site and particularly as entrance holes to the sett lie within an area to be developed. Moreover, as the land slopes up to the woodland in this location, it is likely that excavation would be required, similar to the existing pitches in the north corner of the caravan park. Consequently, the proposal is likely to require a License from Natural England.
7. I have no comments from Natural England, nor any information about whether there is a likelihood that a License would be granted if I allowed the proposal. In addition, whilst the survey proposes mitigation in the form of a post and rail fence, there are no details on the plans of where this would be provided. Clearly, a requirement for a minimum stand-off distance of 15m from current badger entrance holes on the site would conflict with the proposed layout. No other avoidance is demonstrated in the layout and no other mitigation or compensation measures are proposed. Therefore, I must apply the precautionary principle and find the proposal would cause harm to the resident badgers.
8. Paragraph 175 of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
9. I therefore conclude, on this issue, that the proposal would adversely affect badgers, a protected species using the site. Thus, there is significant conflict with Policies CS17 and CS5 of the North Lincolnshire Core Strategy 2011 (CS); and Policy R13 of the North Lincolnshire Local Plan 2003 (LP), which amongst other things, seek to protect and enhance the natural assets of the district, ensure unavoidable impacts on biodiversity and wildlife are appropriately mitigated, and produce net gains in biodiversity. It would also be contrary to paragraph 170 of the Framework, which seeks to protect and enhance sites of biodiversity value, minimise impacts on and providing net gains for biodiversity. The Council also cites conflict with LP Policy RD2, but it is of limited relevance to this main issue and does not add anything that is not covered by the aforementioned policies.

Character and appearance

10. The caravan park lies behind the housing on Stather Road in a semi-rural, edge-of-settlement location close to the River Trent.
11. The existing static caravans and touring pitches are confined to the northern part of the caravan park. The proposal would provide an additional 21 static caravans on part of an open grassed area to the south of the existing caravans. However, this grassed area is still within the boundaries of the caravan park and is not viewed as part of the open countryside. Consequently, the proposal would not encroach any further into the open countryside. Furthermore, the site is largely screened on all sides by housing, woodland and boundary planting. The Council accepts that views into the site from public vantage

points are limited and that the proposal would be viewed in the context of the established caravan park. No significant adverse impact on the wider Trent Levels landscape have been identified, and I concur.

12. The scale of the proposal and siting of the units would not result in an overly developed or dense site and there is no evidence before me that the additional number of units would harm the locality in terms of overdevelopment or strain on local services.
13. The Council also considers that there is a lack of clear justification for the development. My attention is drawn to LP Policy RD2, which generally seeks to strictly control development in the open countryside and ensure the impact on the countryside is minimised. In my judgement the proposal could fall under criteria ii) employment related development appropriate in the countryside. Irrespective, I give greater weight to LP Policy R12 as it specifically relates to caravan and camping facilities and indicates that these will be supported subject to a number of criteria. These include that the development is closely associated with existing recreational and tourist attractions, is an appropriate scale, and can be suitably screened. In addition, Policy CS15 of the CS is generally supportive of sustainable tourism. Paragraph 83 of the Framework seeks to enable the sustainable growth and expansion of all types of rural business, including rural tourism developments which respect the character of the countryside. For the reasons given above, the proposal complies with these policies and the Framework, so does not require further detailed justification.
14. I conclude, on this issue, that the proposal would have an acceptable impact on the character and appearance of the area. In this regard, the proposal does not conflict with LP Policy R12 and the thrust of Policy RD2. It is also consistent with the Framework in this regard, as stated.

Living conditions

15. The proposal would utilise the existing access which connects to Stather Road between two neighbouring houses. There are also a number of houses overlooking the site. The Council is concerned that the noise arising from the intensification of the use of the access road would be detrimental to the living conditions of the neighbouring occupiers, who themselves have expressed similar concerns. However, given this is a holiday park it is unlikely that the additional caravans would be occupied all of the time. The unchallenged evidence before me indicates that on average any single caravan is occupied for 51 days of the year and that the site is only ever fully occupied 14% of the time on average, annually. It therefore does not automatically follow that there would inevitably be a significant increase in traffic using the access road.
16. Indeed, the evidence before me suggests only a negligible increase in daily traffic using the access at peak season. Patently this would be even less at other times of the year. I have noted the criticism of the timing of the appellant's baseline traffic count, but if the count had been undertaken during a busier period of the year the baseline would be higher, so it would only serve to further reinforce this finding. Furthermore, Stather Road has a bus service and the site is within walking distance of services within the village. Thus, in the absence of any evidence to the contrary, I do not consider that the proposal would significantly intensify the use of the site access.

17. Overall, having regard to the scale of the proposal, its layout and the evidence before me, I do not consider that there would be any significant adverse impacts on neighbouring properties in respect of noise and general disturbance, particularly associated with vehicle movements. Any noise and disturbance during the construction period would be temporary and could be mitigated by careful construction management and other legislation.
18. I conclude, on this issue, that the proposal would not have a significant adverse effect on the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance. In this regard, the proposal does not conflict with LP Policies DS1, H7 and RD2, which among other things, require that development does not cause unacceptable loss of amenity to neighbours.

Other Matters

19. Although not part of the refusal reasons, I have noted the concerns that were raised in relation to the proximity of the caravans to the dog kennels. There is evidence that the kennels may shut down, but the potential for resumption of the use would remain. I am mindful that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. However, this appears to be an existing problem, and whilst the proposals would bring caravans closer to the kennels, there are already residential properties that are much closer. Moreover, the caravans would not be occupied as permanent residences. It is therefore not a determinative matter that warrants further examination in this appeal.
20. I have also noted the range of concerns from interested parties that have not otherwise been encapsulated within the main issues. However, as I intend to dismiss the appeal for other reasons, it is not necessary for me to explore those matters any further as any findings would not alter the outcome of the appeal.

Conclusion

21. I have found harm in respect of the effect of the proposal on protected species. The proposal therefore conflicts with the development plan and the Framework as a whole. This provides a clear justification for finding the scheme to be unacceptable and therefore the appeal should be dismissed.

A Caines

INSPECTOR