
Appeal Decision

Site visit made on 15 December 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 13 January 2021

Appeal Ref: APP/K1128/W/20/3257649

Moor View Touring Park, Leighmoor Cross to California Cross, Modbury PL21 0SG

- 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 Andrew Wilson of McFarland Park & Leisure Homes Ltd against the decision of South Hams District Council.
 - The application Ref 0482/17/FUL, dated 14 February 2017, was refused by notice dated 19 February 2020.
 - The development proposed is described as an outline application for development of holiday lodges, leisure facilities and associated works.
-

Decision

1. The appeal is dismissed.

Main Issues

2. Although the Council has given three reasons for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify two main issues.
3. Accordingly, the main issues are:
 - Whether or not the proposed development would be in a suitable location, having regard to the character and appearance of the surrounding area; and,
 - The effect of the proposed development with regards to ecology.

Reasons

Character and Appearance

4. The appeal site comprises an existing caravan park and adjacent fields. The site is bounded to the north by a highway with the separate fields which comprise the appeal site being bounded by hedgerow and scattering of trees. The existing caravan park is arranged in a number of distinct areas for the separate siting of caravans, lodges and tents. The caravan site includes a building which acts as a reception, common room and which provides access to washing facilities. There are a number of small ponds and drainage ditches located around the site, with the land predominately rising gently uphill from north to south.

5. The appeal proposal seeks to extend the existing caravan park and provide accommodation in the form of lodges. The appeal scheme further proposes the demolition of the existing building which, amongst other things, provides a reception for visitors, to be replaced by a leisure facility with swimming pools and gym.
6. By reason of the predominately open landscape surrounding the site, hedge lined narrow lanes and scatter of dwellings and agricultural holdings, the surrounding area has an intrinsically rural feel such that the appeal site is located within the open countryside for planning purposes.
7. Policy TTV26 of the Plymouth and South West Devon Joint Local Plan (the JLP) seeks to protect the special characteristics and role of the countryside. The policy is in two sections. The first section seeks to restrict isolated development within the countryside unless there are exceptional circumstances, such as provision of a dwelling for a rural worker, securing the future of a significant heritage asset or be of a truly outstanding or innovative sustainability and design.
8. Having regard to *Braintree District Council v Secretary of State for Communities and Local Government & Ors* (2017) EWHC 2743 (Admin) and the subsequent Court of Appeal Judgement, the term isolated should be given its ordinary objective meaning of "far away from other places, buildings or people". Given the proposed development would be adjacent to and would replace part of the existing caravan site, it would not strictly be isolated when applying the aforementioned definition and, therefore, does not require assessment against the first part of Policy TTV26 of the JLP.
9. The second part of Policy TTV26 of the JLP concerns all development in the countryside and is applicable to the appeal scheme. In this regard, the appeal scheme does not propose the reuse of a traditional building or would respond to a proven agricultural, forestry or other occupational need that requires a countryside location. The proposed development is not advanced as being for the improvement or protection of public rights of way and, whilst it is understood would not prejudice the agricultural operations of a farm, the proposal would not be complementary to agricultural operations. In these respects, the proposal would not comply with the requirements of the second part of Policy TTV26 of the JLP and would conflict with this Policy when taken as a whole.
10. Policy DEV23 of the JLP concerns landscape character which, amongst other things, seeks to ensure that developments conserve and enhance landscape character and scenic visual quality, avoiding significant and adverse landscape or visual impacts.
11. In June 2019 the Appellant provided a Landscape and Visual Impact Assessment (the LVIA) in support of the planning application and which appears to have been submitted in response to earlier objections from the Council regarding the impact of the proposal. The LVIA acknowledges that the proposal would have a slight to moderate impact.
12. Having regard to the evidence and submissions before me, in my view and by reason of the scale and spread of the proposed expansion into undeveloped parts of the countryside and given the site and immediate surrounding area's

prominence in views from the north, the appeal proposal's impact on the landscape would be significant.

13. Further to the above, no details concerning the height of the proposed leisure centre building appear to have been provided with the planning application. Without full details regarding the height of the proposed leisure facility, it would not be possible to accurately determine the level of impact of the scale of this building on the character and appearance of the surrounding area which, given its proposed use and the sizeable footprint of the building, could result in an substantially scaled, incongruous, discordant and intrusive feature in the surrounding landscape. In my view, it is the scale, spread and overall layout of the proposal that would result in significant harm to the surrounding landscape.
14. Whilst no landscaping scheme is before me and it may be that enhancements could mitigate the visual impacts of the development to an extent, I do not consider that they could likely screen the development from view entirely, particularly if the scale of the proposed leisure facility building was considerable in terms of its height.
15. It is noted that there is disagreement between the main parties as to whether the planning application, which is the subject of this appeal, was submitted as an Outline Planning Application with some matters reserved or as a Full Planning Application. In this regard, while the submissions of the main parties have been fully considered, I have found above that the scale of the proposed development and spread of the appeal scheme's layout would result in significant harm to the character and appearance of the surrounding area. Accordingly, even in the event that the planning application should be assessed as being an outline application, that outline proposal would, in terms of its scale and layout, fail to accord with the policies of the development plan which seek to protect the countryside from harmful development.
16. In light of the above factors and reasons, the appeal scheme would conflict with Policies SPT12, TTV26 and DEV23 of the JLP which, amongst other matters, requires that the distinctive characteristics, special qualities and important features of the natural environment are protected, conserved and enhanced. For the same reasons, the appeal proposal would fail to accord with paragraph 170 of the National Planning Policy Framework (the Framework) which seeks to ensure that planning decisions contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
17. The appeal proposal seeks the expansion of an existing tourism business located within the countryside and, in this regard, Policy DEV15 of the JLP which concerns supporting the rural economy is applicable. Policy DEV15 of the JLP broadly provides that, subject to a set of criteria, support would be given to schemes in suitable locations which seek to improve the balance of jobs within rural areas and diversify the rural economy.
18. The planning application was supported by a Tourism Need and Economic Impact Assessment which considers market opportunity and outlines the potential economic impact of the proposed additional lodges at the appeal site. The Assessment indicates that demand is high and that the benefits of the proposal would be substantial in terms of additional employment opportunities both at the site and throughout the wider district, and in terms of additional spend of visitors within the wider area thereby supporting the local economy.

19. Whilst the concerns of the Council are noted regarding the level of occupancy and the contention that all year round rental of the lodges would be required to be secured by a planning obligation, it is clear that the economic benefits associated with the proposed development would be substantial. I shall return to the consideration of the benefits of the proposal below.
20. Policy DEV15 of the JLP confirms, amongst other things, that proposals for camping, caravan chalet or similar facilities will be supported where they respond to an identified need, are compatible with the rural road network and has no adverse environmental impact. However, criterion 8(iv) of Policy DEV15 of the JLP provides that development should avoid incongruous new buildings and, given the lack of information regarding the height of the proposed leisure facility building, the scale of that structure could result in an incongruous building as noted above. Accordingly, without sufficient information that demonstrates the proposed scale of the leisure facility structure would not result in an incongruous new building, the appeal scheme would not accord with criterion 8(iv) of Policy DEV15 of the JLP and therefore would conflict with the provisions of this policy when taken as a whole.
21. For the above reasons, the appeal scheme would conflict with Policies TTV26, SPT12, DEV15 and DEV23 of the JLP and this conflict weighs significantly against the proposal. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
22. Weighed against the conflict with the development plan and as described above, the appeal proposal would provide substantial economic benefits and could, subject to biodiversity net gain, provide moderate environmental benefits. However given that details regarding the scale of the proposed leisure facility building have not been provided and therefore given that the impact on the character and appearance of the surrounding countryside could be significant as above, I cannot be sure that the extent of the proposed benefits associated with the scheme would outweigh the harm identified and therefore, overall, only attach substantial weight to these benefits in the determination of this appeal.
23. Whilst the Appellant's submissions regarding the impacts and significant changes to the Country's economy and tourist industry resulting from Covid-19 with regards to increased demand for people holidaying in the UK are acknowledged, and the immediate effects of Covid-19 are here for all to see, in my view it is too early to tell if these changes will be sustained in the longer term.
24. Consequently, the substantial weight to be given to the proposal's benefits would be outweighed by the significant harm resulting from the conflict with the development plan when taken as a whole and from the significant harm to the character and appearance of the surrounding area.

Ecology

25. The evidence indicates that proposed development would be located within the zone of influence of the South Hams Special Area of Conservation and falls within a greater horseshoe bat sustenance zone associated with the High Marks Barn Site of Special Scientific Interest.

26. Further to an objection raised by Natural England and since the planning application was refused by the Council, the Appellant undertook to update a Horseshoe Bat Activity and Impact Assessment which sought to provide additional mitigation measures in relation to any harm arising from the proposal.
27. Whilst the updated information and measures are noted, a response from Natural England in relation to those updated measures has not been provided in relation to this particular scheme. However, and while noting that the effects of proposals with regards to protected sites and protected species are important issues, I have not found it necessary to examine this matter in greater detail as, for the reasons outlined above in relation to the first main issue, it does not alter my overall conclusion in relation to this appeal.

Other Matters

28. Interested parties raise additional objections to the proposal on the grounds of, amongst other matters, highway safety, flooding and effect with regards to archaeology. These are important matters and I have considered all of the evidence before me. However, given my findings in relation to the main issues above, these are not matters that have been critical to my overall decision.

Conclusions

29. The proposed development would conflict with the development plan when taken as a whole and there are no material considerations before me that would lead me to reach a determination other than in accordance with the development plan. As such, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR