



Appeal Decision

Site visit made on 23 November 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8 March 2021

Appeal Ref: APP/X1355/W/20/3255287

Land to West of Cemetery, Kitswell Road, Lanchester

Easting: 415907 Northing: 548022

- 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 Jordan Bell against the decision of Durham County Council.
 - The application Ref: DM/19/02535/FPA, dated 26 July 2019, was refused by notice dated 16 January 2020.
 - The development proposed is the erection of 3 No timber cabins for holiday let purposes.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Jordan Bell against Durham County Council. This application is the subject of a separate Decision.

Procedural Matters

3. During the course of the appeal, Durham County Council adopted the County Durham Plan, October 2020 (the CDP) which replaces the Derwentside District Local Plan. I have therefore determined the appeal having regard to the relevant policies within the CDP. Both main parties have had the opportunity to comment on the implications of this for the appeal. I am satisfied that no interested party has been prejudiced by this approach.
4. A copy of the Lanchester Neighbourhood Plan 2019 – 2034 Submission Draft (the emerging LNP) has been submitted by the Council. However, neither the emerging LNP nor any policies within it are referred to in the Council's officer report or decision notice. I have not been provided with any substantive details regarding the stage of preparation of the emerging LNP. Therefore, I can only afford it limited weight.
5. During the determination of the application the proposal was amended. The Council has confirmed that the proposal was determined on the basis of drawing number 141.16/02 Rev F received 30 October 2019, and that internal and external consultations were undertaken on this drawing. Therefore, for the avoidance of doubt, I have determined the appeal on the basis of this revised drawing.

6. Following the refusal of the application, the appellant submitted a 'Preliminary Assessment of Trees' by Barnes Associates Ltd¹ (the Barnes report) to the Council, which has also been submitted with the appeal. I am mindful that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the Council as local planning authority, and on which interested people's views were sought.
7. The Barnes report does not change the proposal, rather it provides additional information in response to the Council's reason for refusal. Furthermore, prior to the appeal, the Council provided preliminary comments on its content, and the Council and notified interested parties have also had the opportunity to comment on its findings as part of the appeal process. For these reasons, I am prepared to accept the Barnes report. I am satisfied that the rights of the Council or any interested party have not been prejudiced by this approach.

Main Issues

8. The main issues are whether or not the appeal site would be a suitable location for holiday-let accommodation, having regard to i) the effect of the proposal on the character and appearance of the area; and, ii) local and national policy relating to visitor accommodation.

Reasons

9. The appeal site is located just outside the built up area of Lanchester, within the open countryside and in an Area of Higher Landscape Value. The surrounding land to the north, south and west of the site is characterised by open agricultural fields which are interspersed by tree lines, field boundaries and pockets of woodland. The site is a modest wedge-shaped plot of land which is largely enclosed by a timber post and rail fence. The land contains well-established coniferous woodland, mainly Norway Spruce trees.
10. Immediate short range views of the woodland can be gained from Kitswell Road, a bridleway and public right of way, which runs next to the northern boundary of the site; and from the Lanchester Valley Railway Path, a footpath and cycleway, which runs adjacent to the southern boundary of the site. In addition, the gentle rise of the surrounding land from north to south causes the woodland to be readily visible and a prominent feature within the landscape in long range views from the A691.
11. There is some inconsistency in the Council's submissions in its assessment of the value of the woodland, as an entity and as a feature within the landscape. Notwithstanding this, from the evidence before me and my observations on site, I consider that the woodland contributes to the rural character and appearance of the surrounding landscape and area.
12. The proposal comprises the change of use of the land and the erection of three single-storey, rectangular timber cabins for holiday-let purposes, which would be embedded within the body of the woodland. I observed on site that some of the trees have been removed from the areas where the cabins are proposed to be located, creating three 'coupes' within the woodland.

¹ Preliminary Assessment of Trees at Low Meadow Farm, Lanchester, County Durham DH7 0RE, Barnes Associates Ltd, dated 17 May 2020.

13. The cabins would be faced in horizontal timber battens, stained dark brown along with the window frames and doors. They would possess shallow pitched roofs covered in pressed steel roof tiles in Anthracite. The cabins would be modest in size with no defined curtilage. Each unit would incorporate two bedrooms with an associated living area along with kitchen and bathroom facilities. Access to the cabins would be gained from Kitswell Road and each unit would possess an adjacent dedicated off-road parking bay. There would also be secured external storage areas under the front canopies of the cabins for bikes and walking equipment.

Character and appearance

14. The parties disagree as to whether the existing trees would provide adequate screening to the proposed development in the future. From the evidence before me and my observations on site, if the proposed cabins and any associated paraphernalia were exposed in any way, they would appear as unduly discordant structures within the landscape and be adversely noticeable in views from the adjacent well-used public routes. As such, if the screening provided by the existing trees was reduced or lost altogether, the proposed development would have a significantly harmful effect on the identified character and appearance of the area. Although the proposed cabins would be simple in form and design and use contextually complementary materials and colours, these factors would not be sufficient to mitigate this harmful effect.
15. I have had regard to the findings of the Barnes report. It confirms that whilst the trees have been established following general forestry principles, they have not been appropriately managed. In terms of the potential for windthrow generally, it states that 'this species when grown appropriately is not noted for being prone to windthrow'. With regard to the potential for windthrow following the recent formation of the coupes, it declares that 'in itself this is not expected to significantly increase the risk of windthrow.' I am also aware that the site has been exposed to a number of storms during recent years which did not result in any significant damage or loss of trees. On this basis, I am persuaded that the woodland is not highly susceptible to windthrow and the creation of the coupes have not significantly increased any existing risk.
16. Nevertheless, nowhere in the Barnes report does it conclude that the trees within the appeal site are not at all susceptible to windthrow and it also raises additional issues regarding the health and condition of the trees. Amongst other things, it concludes that 'the group appears to be relatively stable in the short to medium term, however more general health and cultural issues are expected to have a greater impact on the management and sustainability of the group.' In addition, it recommends that 'a management plan working towards the gradual replacement of the Norway Spruce and establishment of a secondary more diverse group of trees is to be investigated.'
17. I acknowledge the appellant's proposed use of low impact methods of construction and the implementation of appropriate tree management principles to help maintain a sufficient level of screening to the cabins in the long term. Nonetheless, from the evidence before me, I am not wholly convinced that the woodland would provide adequate screening of the proposed cabins in the short to medium term. Even though there is a general intent to gradually diversify the existing woodland to provide increased screening, this process itself would potentially lead to the cabins being highly

visible and incongruous within the landscape while any newly planted species establish themselves.

18. I recognise that the production and implementation of a woodland management plan (WMP), which would guide the process of replacement and diversification of the trees, could be secured by appropriate planning condition(s). However, as the provision of adequate screening is at the heart of whether the proposal would be acceptable in planning terms, I am of the opinion that it would not be appropriate to leave this matter to be dealt with by condition(s). The detail needs to be confirmed to provide assurance and confidence that the WMP would be deliverable and the proposal would be acceptable.
19. I note the appellant's assertions that the Council has not raised the issue of the health of the trees previously, nor has it requested the submission of a WMP to confirm the acceptability of the proposal. However, the Barnes report was produced after the application was determined. If the findings of the Barnes report in relation to the susceptibility of the woodland to windthrow are to be taken into consideration, then regard must also be had to its conclusions on the health and condition of the trees. Furthermore, the Barnes report and the informal response from the Council regarding its contents includes reference to the investigation of a management plan.
20. Taking into account the issues raised regarding the health and condition of the trees, combined with the lack of detail and certainty regarding the future management of the woodland, I am not persuaded that the existing trees would provide adequate screening of the proposed cabins in the short to medium term. Inadequate screening would cause the proposal to have a significantly harmful effect on the character and appearance of the area.
21. Accordingly, I conclude that the appeal site would not be a suitable location for holiday-let accommodation, having regard to the proposal's effect on the character and appearance of the area. As such, it would conflict with Policies 8, 39 and 40 of the CDP which, amongst other things, seek to ensure that new tourism accommodation respects the scale and character of the area and is adequately screened; conserves the special qualities of the landscape unless the benefits of development in that location clearly outweigh the harm; and, that new development retains existing trees where they can make a positive contribution to the locality and where trees are lost, include suitable replacement planting.

Local and national policy

22. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise². Policy 8 of the, recently adopted, CDP concerns visitor accommodation and consequently is directly relevant to the appeal.
23. I have had regard to the parties' submissions on which part or parts of Policy 8 the proposal should be assessed against. I accept that as the proposal is for new visitor accommodation within the countryside Part 2 is applicable, but also note as it is for a new site for chalets then part 3 is also relevant.

² S38(6) of the Planning and Compulsory Purchase Act 2004.

Nevertheless, it seems to me that the policy requires to be read as a whole, with a number of criteria requiring to be met to confirm support for any proposal for visitor accommodation.

24. The policy advises that, subject to parts 2 and 3 of the policy, all proposals for new visitor accommodation will be supported where they are a) appropriate to the scale and character of the area; and, b) not used for permanent residential occupation. As the proposal is for holiday-let cabins, it meets criterion b). However, given my findings above, there would be conflict with criterion a).
25. Part 2 of the policy states that proposals for visitor accommodation that are in the countryside will be supported where they meet criteria a) to b) and where: c) it is necessary to meet identified visitor needs; or d) it is an extension to existing visitor accommodation and helps to support future business viability or is a conversion of an existing building; and e) it respects the character of the countryside; and f) it demonstrates clear opportunities to make its location more sustainable.
26. No information is before me which confirms that the proposal meets an identified visitor need in line with the audit that has been carried out³ and, therefore, I am unable to conclude if it meets criterion c). The proposal is clearly not an extension to existing visitor accommodation or a conversion and so it does not meet criterion d). As it does not meet criterion d), the wording of the policy reads that it does not require to be assessed against criteria e) and f). However, even if I considered the proposal against these criteria, I find that it would not respect the character of the countryside. Although, I do accept that as the site is within easy walking / cycling distance from the centre of Lanchester, which possesses a wide range of services and facilities, it would be in an accessible location.
27. Part 3 of the policy states that proposals for new sites for chalets along with associated storage and infrastructure will be supported where they meet criteria (a) to (f) and where: g) they provide a specific Flood Risk Warning and Evacuation Plan; and h) they are not unduly prominent in the landscape from either long or short range views by ensuring: (i) adequate year-round screening through existing topography, vegetation or other features which are compatible with the landscape. Where new or additional screening is required this must be suitably established before development can take place; (ii) the layout would not adversely affect the character of the area; and (iii) the materials and colour of chalets or static caravans, site services and infrastructure are designed to blend with the surroundings of the site and are limited in scale to the needs of the site occupants only.
28. No issues relating to flood risk or the materials and colour of the cabins have been raised by the Council, so there would be no conflict with criteria g) or h)iii. However, as outlined in my reasoning above, I am not persuaded that the existing trees would provide adequate screening of the proposed cabins and any replacement trees and/or new species would take time to establish themselves. If exposed fully or partially, the proposed cabins would adversely affect the character and appearance of the area. As such, there would be conflict with criteria h)i and h)ii.

³ Visit County Durham - County Durham Visitor Accommodation Futures Study and Visitor Accommodation Development Strategy and County Durham Hotel & Visitor Accommodation Development Programme 2017/18.

29. I note the appellant's comments regarding the prescriptive nature of the policy and the provisions within the National Planning Policy Framework (the Framework) that support a prosperous rural economy⁴ which the proposal would contribute to. Nevertheless, the CDP has only recently been adopted and through the examination process was found sound. Moreover, whilst Paragraph 83 of the Framework encourages the sustainable growth and expansion of all types of business and enterprise in rural areas, it also requires sustainable rural tourism and leisure developments to respect the character of the countryside, which I have found that the appeal proposal would not.
30. Accordingly, I conclude that the appeal site would not be a suitable location for holiday-let accommodation, having regard to local and national policy relating to visitor accommodation. As such, it would be contrary to Policy 8 of the CDP as outlined above.
31. The Council also cites conflict with Policy 21 of the CDP. Policy 21 requires that developments support the use of sustainable transport. However, this issue was not raised in the Council's officer report or decision notice. Even if I considered the development against this policy, given that the site is within easy walking / cycling distance from the centre of Lanchester, it would be accessible by alternative and sustainable modes of transport. As such, there would be no conflict with Policy 21 in this respect.

Other Matters

32. The appellant highlights that, in pre-application discussions, the Council considered the proposal to be acceptable in principle subject to the submission of more detailed information on certain aspects of the scheme⁵. However, informal advice provided before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors. I also note that the scheme was amended to take on board comments raised by the Council. However, it is apparent that there were still issues of concern that were not resolved to the Council's satisfaction. As such, these matters do not alter or outweigh my conclusions on the main issues.
33. I acknowledge that, subject to conditions, the Council considered matters of access and highway safety; ecology and biodiversity; and neighbour amenity to be acceptable. Whilst the reports referred to by the appellant⁶ have not been submitted with the appeal, from the evidence before me, I have no reason to disagree. I have also had regard to the broad support of the proposal from Visit County Durham and note the letter of support received by the Council. However, these are neutral considerations in the balance and do not outweigh my conclusions on the main issues.

Planning Balance

34. I accept that the woodland is not highly susceptible to windthrow and the creation of the coupes have not significantly increased any existing risk. However, given the issues raised in relation to the health and condition of the trees, combined with the lack of detail and certainty regarding the future management of the woodland, I am not assured that the proposal would be

⁴ Paragraph 83 of the National Planning Policy Framework.

⁵ Pre-application Ref: 40/17/012271 dated 23 June 2017.

⁶ Tree report by Arbtech and Phase 1 Ecological Assessment.

adequately screened in the short to medium term. If exposed fully or partially, the proposal would have a significantly harmful effect on the character and appearance of the area. This would result in conflict with Policies 8, 39 and 40 of the CDP.

35. The proposed development would provide three holiday-let cabins, which would increase the availability and choice of holiday accommodation in the area. Furthermore, their construction and use would contribute to the local tourism industry and the local economy. There would also be some associated ecological and biodiversity enhancements of the woodland and improvements to the highway. Nevertheless, given the size of the proposal, these benefits would be modest.
36. Overall, I afford substantial weight to the harm I have identified and the conflict with the development plan when taken as a whole. Whilst I afford moderate weight to the benefits referred to above, material considerations do not indicate that the decision should be taken otherwise than in accordance with the development plan.

Conclusion

37. For the reasons given above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR