



Appeal Decision

Site Visit made on 8 June 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2021

Appeal Ref: APP/R1038/W/21/3268864

Proctor Car Sales, Matlock Road, Wessington, DE55 6DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Wessington Park Developments Ltd against the decision of North East Derbyshire District Council.
 - The application Ref 18/01278/OL, dated 21 February 2018, was refused by notice dated 28 August 2020.
 - The development proposed was originally described as 'conversion of existing car sales and storage buildings to create a farm shop complex and new build rural workshops, gallery, restaurant and tearoom, village hall and community shop, hotel, leisure spa, holiday lodges, car parking and housing including 6No sheltered affordable cottages'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A hybrid application was originally submitted seeking full planning permission for all the development set out in the above banner heading other than the housing proposals which were submitted in outline form with matters of landscaping reserved for subsequent approval. However, I have considered the appeal on the basis of the amended scheme that was before the Council when it made its decision. In that regard, the description on the decision notice sets out the matters sought for approval, this being 'Outline application (all matters except access reserved for further approval) for the conversion of existing car sales and storage buildings to create a farm shop, garden centre restaurant and tea room, erection of a holiday lodge complex and reception facilities, construction of a new build village hall and formation of a new access'.
3. Other than means of access, the other details shown on the revised drawings have been considered on the basis that these are indicative only for the purposes of my assessment.
4. The Council's statement of case refers to Policies SS9 (Development in the Countryside) and SDC3 (Landscape Character) of the emerging North East Derbyshire Local Plan (2014- 2034) (ELP). These policies are not cited in the Council's reason for refusal. However, since the application which led to this appeal was determined consultations on the main modifications to the ELP have been completed and the consultation statement submitted with the Inspector's report awaited. I am unaware of any unresolved objections or requirements for further modifications, albeit I acknowledge that the ELP is at a relatively advanced stage and that there are no intended changes to the settlement

development limit at Wessington. Therefore, I attach moderate weight to the policies of the ELP.

5. The proposed development has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations 2017. It has been concluded that the development would not be of a scale and nature likely to result in a significant environmental impact and EIA is therefore not required.
6. The Council's statement of case does not raise concerns in respect of the principle of such development in a countryside location. Rather its principal concern relating to the conversion of the existing buildings and provision of a holiday lodge complex is the effect of the development upon the landscape and character and appearance of the area. I have given regard to this in defining and assessing the main issue.

Main Issue

7. The main issue is the effect of the proposal on the character and appearance of the area, including landscape character.

Reasons

8. There is no dispute that the appeal site is located outside the settlement boundary for Wessington as identified in the Wessington Neighbourhood Plan (made 2019) (NP) and is in the countryside for the purposes of decision making.
9. Paragraph 83 of the National Planning Policy Framework states amongst other things that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. The Framework also encourages protection and enhancement of valued landscapes and requires that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
10. The North East Derbyshire Local Plan (2005) (LP) is now of some age. Even so Paragraph 213 of the National Planning Policy Framework (the Framework) states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework.
11. Policy E11 (Tourist accommodation) in the LP confirms amongst other things that outside settlement development limits this type of development will be restricted to the re-use of an existing building or the extension of an existing tourist facility only. The Wessington Neighbourhood Plan (made 2019) (NP) confirms that development outside development limits will be controlled and limited in accordance with countryside policies in the LP. This would include the requirements under Policy E11. The approach to considering tourism proposals in the development plan is more restrictive than the Framework and in that particular regard carries limited weight.
12. Notwithstanding the above, insofar as the policies of the LP and NP seek to ensure that any development conserves or enhances distinctive landscape character and reflects the intrinsic character of the countryside they are broadly in accordance with the Framework and in those respects are material to my assessment.

13. The site is situated within the Derbyshire Peak Fringe and Lower Derwent Landscape Character Area with a 'Wooded Slopes and Valleys' landscape character type as described in the Derbyshire County Council Landscape Character Assessment (2013) (LCA). The appeal site includes the existing buildings and hard surfacing associated with an existing car sales business. However, the majority of the site relates to the fields which surround the car sales business. These fields form part of a prevailing rural landscape to the south of Matlock Road which is visually distinct from the consolidated built footprint of Wessington.
14. The fields within the site gently fall towards the rear boundary and steeply slope towards the south western corner. A woodland belt is situated next to the rear boundary of the site. The wider topography is undulating with an irregular field pattern. Mature hedgerows and sporadic mature trees line the field boundaries, including those to Matlock Road. These landscape features correspond with some of the key characteristics identified for the area identified in the LCA. The evidence before me also suggests that the high quality of this landscape has been identified as being of primary sensitivity in the evidence base which underpins the ELP.
15. I have taken into account the appellant's Landscape and Visual Impact Assessment (LVIA) albeit I acknowledge that it assesses the proposal as originally submitted. Even so, there are aspects of the LVIA, including the zones of theoretical visibility and principle viewpoints identified, that are material to my considerations.
16. The land indicated for holiday lodge accommodation is considerable in area and would have the potential to accommodate a significant number of lodges. Conditions could be attached to restrict the number and height of the holiday lodges and to include a requirement for green roofs to be incorporated. However, whether buildings and associated infrastructure are tightly packed or more dispersed across the identified zone, it is likely that they would be perceptible from Matlock Road where the heights of buildings would exceed hedge lines. This would be particularly the case in views across the existing site access and from the upper floor windows of dwellings on the opposite side of Matlock Road. Supplementary planting would assist with screening. However, this would take time to establish and, given the contours of the site and surrounding topography, would be unlikely to fully assimilate the proposals within the wider landscape such as from principle viewpoints 3 and 4 in the LVIA.
17. I am conscious that access is specifically applied for in this instance. Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 defines the reserved matters and confirms amongst other things that 'access' relates to 'the accessibility to and within the site, for vehicles, cycles and pedestrians...'. Therefore, the point of access to the north of the existing car sales buildings and its extensive angled route through the field would be substantively fixed in the event that this appeal was to be allowed. It would necessitate the removal of a section of the verge and the hedgerow which borders the existing field. In combination with the carriageway widening and associated right turn road markings required, the access would appear heavily engineered and would have an urbanising impact on this section of Matlock Road. The access point would also open up views towards any

development towards the western boundary of this field, for example the car park shown on the indicative drawings.

18. The intrusive impact of the access drive would be evident for those passing by close to significant viewpoints 3 and 6 identified on Map 10 in the NP and for those emerging from the Public Right of Way opposite Cottage Farm. Any screen planting would take some time to reach maturity and even then the incongruity of the access road would be evident in localised views from the identified viewpoints.
19. Overall, I conclude that there would be adverse harm caused to the character and appearance of the countryside and this includes landscape character where such harm would be moderately adverse. In that regard it would conflict with the requirements to protect distinctive landscape character and the intrinsic character and beauty of the countryside in Saved Policies GS1, GS6 and NE1 of the LP, policies 1, 2, 3 and 8 of the NP and the Framework.
20. The proposal would also conflict with the aims to respect the form, scale and character of the countryside landscape in Policies SS9 and SDC 3 of the ELP.

Other Matters

21. Policy 8 of the NP is supportive of additional business or tourism related development on 'the Proctors site' within the boundary of the site identified in the NP. The Council does not contend that the elements of the proposals which re-use previously developed land and buildings associated with the car sales business would be harmful to the character and appearance of the area and from what I have seen I find no reason to disagree. In these respects there would be benefits for the local community through the provision of a shop, restaurant and tea room. The evidence before me also indicates that the overall proposals would also create between 37 – 42 full time equivalent jobs. There is also the potential for the development to incorporate measures to support biodiversity. These are matters which attract positive weight in favour of the development but are not collectively of sufficient magnitude to outweigh my conclusion on the main issue.
22. The appellant has confirmed that they would be willing to accept a planning condition restricting the use of all the lodges to 'holiday accommodation'. However, the evidence before me indicates that the intention is to sell the accommodation as holiday homes with an occupancy restriction of 45 weeks with the remaining weeks to be available for short term accommodation. Given the intended occupancy restriction would potentially allow for owners to reside at the lodges for most of the year, this raises uncertainty as to how transient any visitors would be. It is also unclear whether any owners would be obliged to allow tourists to use the accommodation outside the restricted period. These factors somewhat diminish any positive weight that might be attached to benefits derived from the holiday lodges to tourism and further convince me that the harm identified would not be justified.
23. I am not persuaded by the evidence before me that the proposed access drive to the north of the existing buildings on the site is essential from a highway safety perspective or necessary to address levels of traffic in the vicinity of houses in Wessington. The suggestion that the existing business access point could not be utilised due to requirements for the acquisition of third party land and due to difficulties achieving a suitable car parking and servicing

arrangement further convinces me that the scale of the proposals could not be reasonably accommodated without harm to the character and appearance of the area. That the access drive would provide a convenient route for visitors to access a reception and dedicated parking facilities does not justify the visually intrusive impact of the proposals on the landscape.

24. The Council is supportive of the proposed village hall citing that it would provide a significant social community benefit and drawing my attention to a previous planning permission for a village hall and shop in the same location which lapsed in 2019. I have also seen there is some third-party support for a village hall. However, I have not been provided with any up-to-date published evidence of community need in order to address the requirements of Policy 6 (Enhancing the provision of community facilities) of the NP. Therefore, I am not convinced that the provision of this building outside the settlement boundary would be justified. Even if I was, a legal agreement would be the appropriate mechanism to secure its use for the local community. No such agreement is before me. Therefore, I am not persuaded that a split decision could be substantiated in this instance.
25. The appellant indicates that they would be willing to agree to a condition requiring a pedestrian crossing on Matlock Road to improve access to Wessington and to enter into a Section 106 Agreement to secure the provision of a road crossing, speed restraints and pavements as well as a financial contribution towards play facilities. Those matters which relate to works within the highway could be reasonably secured by way of a Grampian condition. However, in the absence of a completed legal agreement to secure the provision and future maintenance of play facilities, their provision could not be guaranteed. In any case, the provision of such infrastructure is an expected requirement rather than an added benefit.

Conclusion

26. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the Framework specifies that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted unless material considerations in a particular case indicate that the plan should not be followed.
27. There is some conflict with the development plan's requirements for tourism proposals given there are parts of the proposal which do not re-use an existing building, nor is the proposal an extension of an existing tourist facility. I afford this particular conflict only limited weight given these policy requirements are not consistent with the Framework.
28. However, the policies of the development plan and the Framework both seek to protect distinctive landscape character and the intrinsic character and beauty of the countryside. I have concluded that there would be adverse harm caused to the character and appearance of the countryside and this includes landscape character where such harm would be moderately adverse. These are matters of overriding concern and the development would conflict with the development plan when taken as a whole. There are no other considerations, including the policies in the Framework that would outweigh this conflict. Therefore, for the

reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

M Russell

INSPECTOR