



Appeal Decision

Site Visit made on 25 May 2021

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2021

Appeal Ref: APP/E2001/W/21/3269297

Former Yorkshire Water Treatment Works, Penny Lane, Burton Fleming

- 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 McFadden against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/03201/PLF, dated 27 September 2020, was refused by notice dated 18 December 2020.
 - The development proposed is the erection of 2 holiday lodges with associated access and parking.
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Decision

1. The appeal is allowed and planning permission is granted for siting of 2 holiday lodges with associated access and parking at Former Yorkshire Water Treatment Works, Penny Lane, Burton Fleming, in accordance with the terms of the application, Ref 20/03201/PLF, dated 27 September 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the planning application form. I have used the appeal form wording in my decision as it more accurately describes the proposed development. I note that the site benefits from planning permission for a single holiday lodge (Ref. 19/120998/PLF), and there is no indication that the appellant would not undertake that scheme irrespective of the outcome of this appeal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site is a small parcel of land located to the south of a children's play area. It was, in part, formerly used as a wastewater treatment works. There is evidence of that use in the form of structures present on the site. This, alongside the high wire mesh fence boundaries, give the site a somewhat industrial appearance, setting it apart from its rural surroundings. Several trees of varying sizes form a loose hedgerow within the boundary of the appeal site, partially limiting views across the appeal site from Penny Lane.
5. There is a small area of dense woodland immediately to the south of the appeal site. This limits views of the site on approach from the south. Penny Lane is straight with wide, well-tended verges on both sides. However, the roadside boundary of the site, and also with the play area to the north are formed by

reasonably high hedges, which limit views of fields beyond. The land on the opposite side of the road is a well wooded private garden demarcated by a clipped hedge. As such, due to prevalence of trees and the high hedgerows, I did not find this site to have a particularly open character.

6. In terms of the proximity of surrounding uses, my impression of the character of the area is in line with the Council, namely that the site may reasonably be termed as at the edge of a settlement. The Council notes that the appeal site lies within the Yorkshire Wolds Area of High Landscape Value (YWAHLV). The Landscape Character Assessment describes this area of the Yorkshire Wolds (15B) as predominately arable farmland, with large rectangular fields and with minimal woodland cover. However, with regard to the appearance of the appeal site, its former use, surrounding uses, enclosure by various features and lack of prominence in the landscape, it does not contribute strongly towards landscape character or openness here.
7. The appeal proposal is for the siting of two holiday lodges located alongside one another in the northern part of the site. They would be aligned roughly parallel with the line of the road. The Council recently granted planning permission (Ref. 19/02998/PLF) for a single lodge of the same scale as one of the lodges now proposed. That would be sited at 90 degrees to those of the appeal proposal so that the gable end would face the roadside. In both schemes, the proposed access would cross the verge and culminate in a parking area to the south of the lodges. In the case of the appeal proposal those elements of the scheme would be positioned further south and the parking area would extend further into the site.
8. The Council is concerned with the degree of separation between the two lodges and the prominence of the full length of a unit adjacent to the roadside boundary; "which would project above the height of the boundary hedging". However, I note the approved lodge would be a similar distance from the boundary as the location of the proposed lodges. Although I accept that the narrower elevation of the approved lodge would face the road, being a similar height, it would be equally likely to project above the height of the retained boundary hedging. However, boundary hedging would serve to minimise views of the site, particularly once the proposed landscaping has become established.
9. When travelling north towards the appeal site, the proposed lodges would be well screened by the woodland to the south of the site. The wide highway verge would also cause the proposal to be well set back from the road edge, reducing its prominence. When travelling south along Penny Lane towards the appeal site, the hedgerows of the adjacent field and play area would limit views of the lodges. Any views that could be gained across the play area would predominantly consist of two gables separated by a boundary hedge. In viewing the proposal from either direction, I am of the view that the effect of any limited views that could be gained of the appeal proposal would be little different to those of the approved scheme and not discordant.
10. The proximity of the two units to one another would represent an efficient use of the site, minimising its wider effects. Whilst close they are not significantly so, and I note that the Council considers the units acceptable with regard to living conditions. I therefore do not share the Council's view that the development would appear cramped, nor that this would represent poor design.

11. On the basis of my above reasoning I have found that the effect of the appeal proposal would not be significantly different to that of the approved scheme. I have also found that the appeal site and its surrounds are not typical of the YWAHLV. As such, due to the screening around the site to the south, the hedgerows to the north, the setback from the road in addition to the proposed additional planting, I conclude the proposal would preserve the existing character of the YWAHLV and the character and appearance of the surrounding area. The proposal therefore complies with policies EC2, ENV1, ENV2, and S4 of the East Riding Local Plan Strategy Document ('LPSD', adopted 2016), and the provisions of the National Planning Policy Framework ('Framework'), which seek, amongst other things, to preserve landscape character, ensure high quality design and encourage the growth of the visitor economy.

Other Matters

12. The Water Authority has advised that it objects to the proposal as buildings will be sited over the public sewerage system. They advise that the statutory sewer map shows an unknown diameter and depth public surface water sewer crossing the site as well as an abandoned rising main and sewerage treatment works. It is understood that these comments were provided to the Council after the decision on the appeal proposal was made.
13. Notwithstanding this, the Water Authority had provided detailed comments in respect of the previous scheme for two units (prior to it being amended to one and subsequently approved) including a recommendation for planning conditions. These comments also highlight the presence of infrastructure. The proposed plan for two units that the Water Authority commented on is very similar to that of the appeal proposal. In commenting on the initial proposal, the Water Authority noted that building in close proximity to sewer infrastructure can be controlled through Requirement H4 of the Building Regulations 2010, and I agree that provisions in that respect would provide suitable safeguards in this instance.

Conditions

14. I have considered the conditions suggested by the Council in the light of the tests and advice within the Framework and the Planning Practice Guidance. I agree that conditions are necessary in respect of commencement time and relating the development to the submitted plans. I have imposed conditions specifying the number of units in the interests of clarity. I have also imposed a condition requiring details of the colour and material finish to ensure that the proposal integrates appropriately with the character and appearance of the area. This has been imposed instead of the Council's suggested condition referring to a brochure provided by the appellant which was insufficiently precise and did not reflect the appellant's proposal which contained two options.
15. I have condensed the Council's suggested conditions in relation to restricting the use to holiday purposes to secure the use proposed. Restricting occupancy of the building for holiday purposes would prevent other occupation as well as securing the economic and social benefits in accordance with policy EC2 of the LPSD.
16. In the interests of the protection of public health and safety, given the former use of the site, I have imposed a condition requiring submission of a risk

assessment with regard to contaminated land as recommended by the Council's Environmental Control Officer. I have reduced this to a single condition which adequately meets the requirements of the three conditions that have been suggested. The condition is required to be pre-commencement in order to ensure the development can be implemented safely without risk to workers or other users. The appellant has agreed to the terms of that pre-commencement condition.

17. Given my comments at paragraphs 12 to 13 above and the advice provided by the Water Authority I have imposed the two suggested conditions in the interests of providing adequate drainage with regard to the existing infrastructure and managing surface water run off. Conditions requiring the provision of the parking area, as suggested by the Highway Authority, prior to the first occupation of the units are required in the interests of highway safety.
18. Conditions in relation to the protection of trees and hedges during the development works and their retention afterwards are necessary as they minimise views into the site as is considered in respect of the main issue. A condition relating to the implementation of the landscaping scheme shown on the approved plans is required for the same reason.
19. I am statutorily required to have regard to conserving biodiversity, and paragraph 170. d) of the Framework sets out how decisions should seek to minimise impacts in that regard. It is therefore necessary and reasonable to impose condition 12 requiring compliance with the enhancement measure proposed in the Ecological Appraisal.
20. I have not imposed the Council's suggested condition requiring compliance with the FRA in respect of the siting of the dwellings as this is adequately covered by the requirements of conditions 2 and 3.

Conclusion

21. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Paul Martinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0174_BURT_101, 0174_BURT_102 Rev A, 0174_BURT_103, 0174_BURT_104, 0174_BURT_105.

- 3) No more than two lodges shall be stationed on the site at any time and these shall be sited in accordance with the approved plan 0174_BURT_101.
- 4) The holiday lodges on the site shall be occupied for holiday purposes only and shall not be occupied on a permanent basis nor as a person's sole or main place of residence. The site owners/operators shall maintain an up-to-date register of the names of all occupiers of each individual holiday lodge on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
- 5) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority before it is brought into use. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the remedial works having being completed and approved in writing by the local planning authority.
- 6) The site shall be developed with separate systems of drainage for foul and surface water on and off site. The pumped foul discharge rate from the package treatment plant shown on the approved plans shall be restricted to a maximum of 4.75 (four point seven five) litres per second and thereafter maintained as such.
- 7) The development hereby permitted shall not be first occupied until a surface water drainage scheme has been submitted to, approved in writing by the local planning authority, and implemented. Once implemented the approved surface water drainage scheme shall thereafter be maintained as such.
- 8) Prior to the siting of the lodges on the site, precise details of the colour and material finish of the lodges hereby approved shall be submitted to and approved in writing by the local planning authority. The lodges shall be sited in accordance with the approved details and thereafter retained as such.
- 9) All the trees and hedges shown on the plan 0174_BURT_101 as "to be retained" and any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously

approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of undertaking the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

- 10) All planting, seeding or turfing comprised in the approved details of landscaping as shown on the approved plan 0174_BURT_101 shall be carried out in the first planting and seeding seasons following the first occupation of either lodge hereby permitted or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) No lodge hereby permitted shall be occupied until space has been laid out within the site in accordance with drawing no. 0174_BURT_101 for four cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for the parking of vehicles.
- 12) Two bat boxes shall be installed in accordance with the detail provided in section 6.4.1 of the Preliminary Ecological Appraisal (Middleton Bell Ecology, October 2019) prior to the first use of the lodges hereby permitted and retained thereafter.
- 13) No retained tree as defined in condition 9 shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from the date of the first occupation of either lodge, other than in accordance with the approved plans.
- 14) If any retained tree as defined in condition 9 is cut down, uprooted or destroyed or dies within 5 years of the date of the first occupation of either lodge, another tree shall be planted at the same place and that tree shall be of the same size and species and shall be planted in the next planting season following its loss.