



Appeal Decision

Site visit made on 21 September 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2021

Appeal Ref: APP/R0660/W/21/3274811

Sunny Oak Caravan Site, Whitchurch Road, Wirswall, Whitchurch SY13 4JJ

- 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 Thompson against the decision of Cheshire East Council.
 - The application Ref 20/3465N, dated 10 August 2020, was refused by notice dated 16 March 2021.
 - The development proposed is siting of 25no. holiday lodges.
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Decision

1. The appeal is allowed, and planning permission is granted for the siting of 25no. holiday lodges at Sunny Oak Caravan Site, Whitchurch Road, Wirswall, Whitchurch SY13 4JJ in accordance with the terms of the application Ref 20/3465N dated 10 August 2020, subject to the conditions attached to the schedule with this decision.

Application for costs

2. An application for costs was made by Mr Thompson against Cheshire East Council. This application is the subject of a separate Decision.

Procedural Matter

3. I note that the Council have not raised reasons for refusal against any aspects of the proposals other than flood risk. I have no reason to disagree with that assessment and as such I will not deal with those matters any further in my decision.

Main Issue

4. On that basis, the main issue in this appeal is the effect of the development on flood risk.

Reasons

5. The appeal site is a section of land within the caravan park that is currently grassed and maintained, with a footpath running through it and various caravan pitches dotted around.
6. The site was designated as flood zone 3, and as such a Flood Risk Assessment (FRA) was carried out by the applicant. In their original consultee response, the Environment Agency objected to the scheme on the basis that the FRA did not comply with requirements and therefore did not adequately address the flood risk posed by the development.

7. A revised FRA was then submitted and received further feedback from the Environment Agency who suggested that further revisions were required.
8. A third FRA was submitted which was then accepted by the Environment Agency, and they removed their objections as a result and that, with the addition of planning conditions, it satisfactorily addressed their concerns.
9. After this the Lead Local Flood Authority (LLFA) supported the comments of the Environment Agency and also accepted the findings of the FRA, subject to planning conditions.
10. Despite these positive outcomes from the specialist consultees, the Council have still utilised the issue of flood risk as the reason for refusal. They have referenced the 'broad brush' approach of the Environment Agency in terms of the flood zone maps to underpin this reasoning.
11. The appellant has worked with the Environment Agency in order to address the issue of flood zoning, an approach which the Environment Agency utilise and welcome. The flood zone mapping is indeed a 'broad brush' approach, but the appellant has worked with them in order to accurately define the areas, which is an approach taken many times by applicants and appellants all over the country, in order to correctly define the flood zones in and FRA on a site-specific basis, which is far more detailed than the standard flood zone mapping.
12. As a result, I am satisfied that the appellant has addressed the flood zone issue to address the problems raised by the Environment Agency and whilst the reason for refusal is a planning judgement, I find that, with the addition of conditions raised by the specialist consultee, the issue has been addressed to my satisfaction.
13. As such, I find that the proposals are consistent with policies SD2 and SE13 of the Cheshire East Local Plan Strategy (2017) which, amongst other matters, expect development to carry out an FRA, avoid high risk flood areas and carry out appropriate mitigation measures as well as being consistent with the guidance set out in the National Planning Policy Framework.

Other Matters

14. I have also been supplied other appeal decisions by the Council, but I notice that neither is in the Council Area covered by the appeal, and I have no details of the background, context or specific site circumstances, and in any event, I must determine the current appeal on its own merits.

Conditions

15. I have taken into consideration the conditions suggested by the Council, some of which I have edited for clarity.
16. Conditions 1, 2 and 12 are imposed in the interests of proper planning. Condition 3 is in the interests of visual amenities, whilst Condition 4 ensures sustainable development. Conditions 5 and 6 are in the interests of highway safety and sustainable drainage respectively whilst Conditions 8, 9, 10 and 11 are in the interests of protected species and biodiversity.

Conclusion

17. For the reasons given above I conclude that the appeal should be allowed.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby approved shall commence within three years of the date of this permission.

- 2) The development hereby approved shall be carried out in total accordance with the following approved plans:-

01B received by the Local Planning Authority on 19th November 2020

Plan to show Lodge Supports received by the Local Planning Authority on 2nd October 2020

Existing and Proposed Site Sections received by the Local Planning Authority on 2nd October 2020

01C received by the Local Planning Authority on 21st September 2020

Typical Floor Plan received by the Local Planning Authority on 19th August 2020

Typical Elevations received by the Local Planning Authority on 19th August 2020

Location Plan received by the Local Planning Authority on 10th August 2020

- 3) No development involving the use of any facing or roofing materials shall take place until samples of the materials to be used in the construction of external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

- 4) Prior to first occupation of the site, an Electric Vehicle Infrastructure plan shall be submitted to and agreed in writing by the LPA. The Infrastructure plan shall aim to meet the following specification: -

A single Mode 3 compliant Electric Vehicle Charging Point. The charging point shall be independently wired to a 30A spur to enable minimum 7kW Fast charging or the best available given the electrical infrastructure.

Should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to the Local Planning Office prior to discharge. Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the previous being submitted.

- 5) The approved development shall not be occupied until the approved access that is required for the development has been constructed in accordance with the approved plan reference 01C and the required visibility splays have been provided. The front boundary hedgerow shall be set back as on the plan and maintained so that it does not encroach to within 2.5m of the carriageway edge.
- 6) The development shall be carried out in accordance with the submitted flood risk assessment Ref:

November 2020/B2268.SunnyoakFRA Version 03/Michael Lambert Associates and the following mitigation measures it details:

- Location of additional 25 new pitches for static caravans to be limited to Flood Zone 2 (1000-year flood outline/medium risk) only.
- Site owner to register to receive Flood Warnings from the Environment Agency.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

- 7) No development beyond excavation level shall take place until a detailed strategy / design, associated management and maintenance plan for surface water drainage for the site has been submitted to and approved in writing by the Local Planning Authority. The drainage design must also include information about the designs storm period and intensity (1 in 30 & 1 in 100 (+40% allowance for Climate Change)) & any temporary storage facilities included, to ensure adequate drainage is implemented on site. The approved strategy/design and associated management shall be implemented as part of the proposed development.
- 8) No removal of any vegetation or the shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. Where nests are found in any hedgerow, tree or scrub or other habitat to be removed, a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone taking place.

- 9) Prior to the use of any facing or roofing materials, a strategy for the incorporation of features to enhance the biodiversity value of the proposed development shall be submitted to the Local Planning Authority for approval in writing. The submitted strategy should include proposals for the provision of features for nesting birds and roosting bats and native species planting. The proposals shall be permanently installed in accordance with approved details.
- 10) Prior to its installation details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 11) (a) No development or other operations shall take place except in complete accordance with the tree protection measures, methodology and special construction works identified in the Arboricultural Report and associated Tree protection plan with measures to be implemented under Arboricultural supervision in accordance with BS 5837:2012 Trees in relation to design, demolition and construction. – Recommendations.
- (b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
- (c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
- (d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority
- 12) The development hereby permitted shall be used solely for holiday accommodation only and shall not be occupied as any person's sole or main residence. The owners/operators shall maintain an up-to-date register of the names and addresses of all owners/occupiers of the holiday unit and shall make this information available at all reasonable times to the Local Planning Authority