



Appeal Decision

Site Visit made on 29 November 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2021

Appeal Ref: APP/Y1138/W/21/3278071

Land at NGR 299526 113232 Crown Hill, Halberton, Tiverton EX16 7AY

- 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 Alan Brine against the decision of Mid Devon District Council.
 - The application Ref 18/01814/MFUL, dated 6 November 2018, was refused by notice dated 19 April 2021.
 - The development proposed is the change of use of agricultural land for the siting of 3 holiday lodges and alterations to existing access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether or not the development plan would support the proposed tourist accommodation in this location, particularly in relation to the requirements of Policy DM22 of the Mid Devon Local Plan 2013-2033 (the Local Plan), and
 - whether or not the occupants of the site who may wish to access the Grand Western Canal and other local facilities could do so safely.

Reasons

Tourist accommodation

3. The site consists of a section of a reasonably level field adjoining the Tiverton Golf Club. The site is well screened from Post Hill (B3131) and, on the broadly eastern side, the land is bounded by what appears to be a small depot with buildings. The location is beyond the settlement boundary of Tiverton and is land defined as countryside. Given the distance from the settlement boundary and rural character of the intervening land, the site cannot be considered to be adjacent or close to the settlement areas of Tiverton or Halberton.
4. However, Policy DM22 of the Local Plan, which concerns tourism and leisure development, does allow tourism development in the countryside subject to meeting the policy criteria. I have noted the concerns of the Council's Economic Development Officer regarding the justification and lack of a detailed business plan. However, the supporting text to Policy DM22 advises that the evidence supporting a countryside location should be proportionate to the scale and nature of the tourism proposal being considered.

5. In this case, the information indicates that the three holiday lodges would be designed and equipped to a high standard and the environment in which they would be located would provide pleasant rural surroundings. The marketing strategy and supporting evidence in the Planning, Design and Access Statement explains the nature of the proposal and the intended market for the accommodation. The range of local and medium distance attractions that would be available is fairly extensive and, in particular, the information identifies that the visitors staying in the accommodation would be attracted by the nearby golf club and Grand Western Canal as facilities directly available. It is explained that they would provide leisure facilities that help to justify this location and which would not be so readily accessible from within nearby settlements.
6. It seems to me that the information which has been submitted is sufficient and proportionate to the scale and nature of the proposal to demonstrate that there would be a market for the lodges as tourist accommodation in this countryside location and that they would provide a high quality tourism product. As a consequence, the requirements of Policy DM22 of the Local Plan would be met.
7. Furthermore, the provision of three lodges in the spacious surroundings would be an appropriately scaled tourism development to meet with the requirements of Policy S14 of the Local Plan which concerns development in the countryside. Additionally, the scheme would comply in this respect with the National Planning Policy Framework (the Framework) which supports sustainable rural tourism and leisure developments which respect the character of the countryside.
8. Accordingly, I conclude that the development plan would support the proposed tourist accommodation in this location and, in particular, the scheme would comply with Policies DM22 and S14 of the Local Plan which, amongst other things, sets out the approach to tourist development in the countryside.

Whether or not the occupants of the site who may wish to access the Grand Western Canal and other local facilities could do so safely.

9. The site is located adjoining Post Hill which has a speed limit of 40mph in this area. At my site visit, while only a snap shot in time, there was a reasonably steady flow of traffic including commercial vehicles and I have no reason to believe that this was not typical of other occasions.
10. There are no footways along this stretch of the road and given the distance to the tourist attractions and facilities at Tiverton, Halberton and further afield, it is likely that occupants of the lodges would use a private vehicle for these journeys. With the provision of three lodges, the associated traffic movements would be reasonably limited in the context of the flow of traffic along this adjoining road. The Framework acknowledges that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
11. The appellant places a particular emphasis on the location close to the golf course and the Grand Western Canal as local attractions that the holiday makers staying at the site could wish to visit. In terms of accessing the golf course, it would be necessary to travel along the B3131 and then up the side road to the entrance to the course. It would not be so close that it would obviously be a distance that would be walked, and given that a player is likely

to have a set of golf clubs, I consider that it is probable that most players would drive to the car park. In these circumstances, there would likely be no material level of highway hazard from pedestrians walking along the B3131 because it is likely that those playing golf would drive to the site.

12. However, I do not consider that this would be the case when accessing the Grand Western Canal. It is a reasonably short distance from the site to the car park entrance of the nearest accessible section of the Canal. This section of the B3131 has no footways and the northern side, past the depot, has a bank and a substantial hedge directly by the side of the carriageway with no refuge areas. On the other, southern, side of the road, there is a verge but sections of this verge are angled reasonably steeply. Based on my site visit, I consider that in these areas, the steepness of the verge would make it difficult, even when the grass was cut, for a pedestrian in the road to be able to move swiftly and securely out of the carriageway, if a vehicle was approaching. When a vehicle was travelling from the east, and passing over the bridge and descending down the road, because of the height of the verge and the curve in the road, it may not be possible to always see in advance any pedestrians walking in some sections of the southern side of the road in this location.
13. I saw at my site visit some examples where two vehicles travelling in different directions met and passed each other within this section of the road. On those occasions there appeared that there would be little space to easily accommodate a pedestrian safely by either side of the carriageway.
14. The lodges would be fairly close to the entrance to the Canal. I consider that it would be very inviting for holiday makers to attempt to walk the reasonably short distance along the road to access the Canal and the attractive and free tourist facility that it would provide. Such holiday makers may not initially be familiar with the road conditions and my view is that driving such a short distance would not appear to be a convenient or a desirable prospect for some people.
15. While some may choose to cycle, the proposal is advanced, in part, because it would provide a location with ready access by foot to the Canal. However, notwithstanding the reasonably short distance, I consider that the walk along the carriageway edge of this part of the B3131, where there are sections which do not provide an adequate refuge, and given the speed and level of traffic movements, would lead to an unacceptable impact on pedestrian safety. In this regard the scheme would not comply with the Framework policy approach to highway safety.
16. I appreciate that the County Highway Authority did not raise an objection on highway safety grounds and that the vehicular access to the site would provide a safe entrance for vehicles. However, the highway situation was raised by some interested parties, including from the Grand Western Canal Joint Advisory Committee and Halberton Parish Council, and it forms a reason for refusal. Consequently, while I attribute significant weight to the conclusions of the County Highway Authority, for the reasons I have set out above, I consider that the scheme, in relation to the adverse impact on highway safety for pedestrians that would result from occupants seeking to access the Canal by foot, would be unacceptable. Nothing that I have read in the evidence or seen on site draws me to a different conclusion.

17. In the light of the above analysis, I conclude that there would be a reasonable prospect that holiday occupants of the lodges would be attracted to walk to the Grand Western Canal but for the reasons explained this would result in an unacceptable impact on public safety. As a consequence, the scheme would conflict with Policy S1 and DM1 of the Local Plan which seek, amongst other things, the creation of safe and accessible places.

Planning Balance and Conclusion

18. The provision of the three holiday lodges would encourage tourists and would thereby provide an economic and social boost to the area with the visitors spending money at local facilities and holiday attractions. However, as only three lodges would be provided the benefits of the proposal, while worthwhile, should be afforded only limited weight in favour of approval.
19. The pedestrian safety concerns are matters which I attribute substantial weight and, therefore, the harm resulting from the development would outweigh the benefits of the scheme.
20. While the countryside location of the lodges may accord with the locational policies of the development plan, because of the harm that would result to pedestrian safety, and the resulting conflict with the identified policies, I consider that the scheme would conflict with the development plan when considered as a whole. There are no considerations which outweigh the identified harm and the conflict with the development plan.
21. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR