



Appeal Decision

Site visit made on 30 November 2021

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Appeal Ref: APP/R1038/W/21/3278881

**Ainmoor Grange Caravan and Camping Park, Mickley Lane, Stretton
DE55 6ES**

- 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 AGC Ltd against the decision of North East Derbyshire District Council.
 - The application Ref 20/00535/FL, dated 19 June 2020, was refused by notice dated 20 January 2021.
 - The development proposed is the siting of 40 no. holiday lodges together with the development of ancillary infrastructure and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of 40 no. holiday lodges together with the development of ancillary infrastructure and landscaping at Ainmoor Grange Caravan and Camping Park, Mickley Lane, Stretton DE55 6ES in accordance with the terms of the application, Ref 20/00535/FL, dated 19 June 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. Amended plans were submitted to and accepted by the Council during the course of the application. The amended scheme showed a reduction in the number of lodges from 43 to 40. I have determined the appeal on this basis. The description of the development has been amended to reflect this reduction.
3. At the time the Council made its decision the Development Plan included the North East Derbyshire Local Plan (November 2005). The Council's decision notice also referred to the emerging North East Derbyshire Local Plan 2014-2034 which has subsequently been adopted, superseding the policies of the North East Derbyshire Local Plan (November 2005). The Development Plan now comprises the North East Derbyshire Local Plan 2014-2034 (Local Plan). I sought comments from the main parties and taken account of comments made.

Main Issues

4. The main issues are:
 - whether the location is suitable for the proposed development, with particular regard to the Council's Spatial Strategy; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Location of Development

5. Policy SS2 of the Local Plan sets out the Council's spatial strategy and where new development will be focussed. It states that land outside a Settlement Development Limit, which is not allocated for development, will be treated as 'countryside' and development only permitted where it accords with other policies, including Local Plan Policy SS9 (Development in the Countryside).
6. It is clear from the submissions that the main parties agree that the site is located outside the Settlement Development Limit and should be considered as being within a countryside location. The appeal proposal seeks permission for holiday lodges on the Ainmoor Grange Caravan and Camping Site, which occupies a wider area that includes the appeal site. The Council refused consent stating that the proposed lodges could be used for longer term occupation, and that such development for long term stays would not be acceptable in the countryside location that the site is in.
7. Local Plan Policy SS9 allows for development in countryside locations, provided it accords with one or more categories that it defines, which includes small scale employment uses related to tourism and new visitor accommodation or proposals to extend such existing accommodation. Policy SS9 e. in particular allows new visitor accommodation, or extensions to existing visitor accommodation in the countryside in accordance with Local Plan Policies WC5 and WC6. Policy WC5 3. states that proposals for such tourist accommodation will be permitted where it is not used for permanent residential occupation. Policy WC6 makes clear that such accommodation must be adequately screened, laid out, be of suitable colour and materials and must not harm the amenity of local residents. I address the proposed development's effect on character and appearance and whether it would meet the requirements of Policy WC6 in the next section below. The Council raises no objection to the colour or materials of the proposed lodges.
8. In terms of Policy WC5, the proposal, as applied for, seeks permission for holiday accommodation and the appellant considers that a suitably worded condition can be used to ensure that the lodges are occupied for holiday purposes only and thereby complying with the relevant categories of this policy. The Council have stated that such a condition would fundamentally change the nature of the development, but I don't consider that this would be the case. The description of the development on the application form clearly identifies the proposal is for 'holiday lodges'.
9. The Council have raised further concerns with such a condition, stating that limiting a use for "holiday purposes" could still lead the development to provide for longer term occupation such as second homes, which the Council consider would be contrary to Local Plan Policy SS9. I note in this respect the concern that the lodges are intended for sale to private individuals. The Council's Planning Committee Report (12 January 2021) did however include a suggested occupancy condition, although they have subsequently stated that they do not consider that this would adequately limit the use. My attention has been drawn to a number of decisions on other sites¹ issued by this Council

¹ LPA Ref's: 20/00570/FL & 21/00305/FL

which contained holiday occupancy conditions. Without prejudice, the Council has suggested a condition with alternative wording, as has the appellant.

10. The key difference between the main parties is the length of time that a person(s) would be able to stay in any lodge. The appellant has put forward a condition, similar to that contained within the Council's Planning Committee Report, which seeks to limit the occupation of any lodge by any person(s) to no more than 24 weeks in a rolling 52-week period. The Council have referenced a more limited period of occupation for any person(s) not exceeding 28 days in any rolling 52-week, which the appellant has, by an email dated 14 January 2022, now accepted.
11. I note the development plan does not specify a maximum occupation length and nor does it stipulate that the length of stay should be short. However, a period of stay extending to almost 6 months in a rolling 52-week period in my view would not constitute holiday accommodation and would be more akin to longer term residence, such as a second home. This would not fall within any of the categories of development considered acceptable in countryside locations as set out in Local Plan Policy SS9.
12. The period of occupation for any lodge not exceeding 28-days would limit extended stays and allow for more frequent visits through the year. This would ensure the development provides a tourism related use and visitor accommodation in the countryside. Although the Council have suggested that there would be difficulties with enforcing such a condition, citing amongst other factors, the enclosed and gated location of the site and the presence of other lodges which are permanent residences, the need to maintain and retain a register of occupiers provides a practical means of checking on the occupation of the lodges. Although lodges may be sold individually, I see no reason why this would necessarily place an impossible administrative burden on the Council or give rise to data protection issues as they can be periodically inspected with any data held securely.
13. I therefore conclude that the location of the development is suitable having particular regard to the Council's Spatial Strategy. As such, there would be no conflict with Policies SS2, SS9 and WC5 of the Local Plan, which seek, amongst other matters, development proposals outside the Settlement Development Limits and in the countryside to accord with one or more of defined categories. It would also not conflict with the relevant provisions of the Framework.

Character and Appearance

14. The appeal site comprises of a number of fields which are bounded by hedges. It is a generally level site and is accessed through the Ainmoor Grange Caravan and Camping Site. Various existing areas of caravans and hardstanding can be seen on adjacent areas of land, including areas of land being developed for the siting of 53 lodges immediately to the north. The presence of these caravans and other buildings, are softened by open areas of land, but more so by the presence of trees and larger areas of woodland, which contribute to the verdant, rural character of the area.
15. Reference has also been made to the appeal site having a restriction that currently prevents the use for the siting of caravans. I also note the large size of the scheme and that the lodges would have a domestic appearance. Whilst the proposal would be seen from a number of public and private vantage

points, particularly from the south and east, these views would be in the context of the existing caravans and the development underway on other parts of the Ainmoor Grange Caravan and Camping Site. A Landscape and Visual Impact Assessment (LVIA) was submitted with the appeal application and this found that the proposal would have a 'minor adverse significance of effect'.

16. I accept that the appeal site currently provides some softening to the wider caravan site, but given the flat topography, it is the vegetation and trees in and around the site which contribute most to the verdant character. As well as generally retaining existing hedgerows and trees, the proposal would provide additional planting that would screen the proposed development. Although more detailing is necessary to ensure that the mitigation would be effective, the submitted plans demonstrate that significant areas along the eastern and southern boundaries would be subject to new native planting. Further details on this, and the protection of existing trees can be addressed by condition. I accept that during colder months the deciduous trees and vegetation will be without foliage, but I consider with the appropriate mix of planting, the landscaping can be effective in mitigating any localised harm arising from the lodges.
17. I therefore conclude that the overall rural character and appearance of the area would not be adversely affected by the proposed development. As such, it would not conflict with Policies SS9, WC5 and WC6 of the Local Plan, which seek, amongst other matters, development that respects the site's location and the character of the landscape. It would also not be contrary to paragraph 130 of the Framework, which requires development to be sympathetic to local character, including the landscape setting.

Other Matters

18. The appellant has accepted that the condition relating to the lodges being occupied for holiday accommodation only should be limited to a period not exceeding 28 days. However, my attention has been drawn to an appeal decision² referenced by the appellant where the length of occupation on holiday accommodation was removed. Although it was stated that the condition will have met the tests of the Framework, it is evident that this referenced appeal decision in 2010 significantly predates the current Framework. Although I have been provided with limited further details of this case, it is clear from the appeal decision itself that the Inspector responded to the particular circumstances of that development and the demands of holiday accommodation at the time.
19. A further appeal decision³ has been referenced but this is also from 2010 and from the information available in the decision, there were key differences with this appeal proposal including one of the conditions in dispute being considered to not prevent the use of the caravans as permanent dwellings.
20. The appellant has also stated that the 24 holiday lodges on the site are not subject to any control or limit on their length of occupation. Whilst this may be the case, the decision notice provided is from 1993 and I have not been made aware of the details of the development plan at the time. Given the limited

² Appeal Ref: APP/P1615/A/09/2103429

³ Appeal Ref: APP/E2340/A/10/2137243

information provided and the differing circumstances of these decisions, I am only able to afford them limited weight.

Conditions

21. I have considered the conditions suggested by the Council and other parties, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the wording of the Council's conditions as appropriate.
22. I have imposed conditions relating to the provision of a Construction Method Statement, addressing land contamination and coal mining risks and measures to avoid surface water run-off during construction. These conditions are necessary to ensure there are no adverse effects on living conditions, to minimise risks from possible land contamination and from coal mining respectively and to effectively manage surface water run-off during construction. A landscaping condition is required in the interests of the character and appearance of the area and to ensure that any trees or planting that are damaged, diseased or removed within 5 years are replaced. Further conditions are also required for the protection of trees and hedgerows and in relation to biodiversity to secure their protection and enhancement in this regard. It is essential for details relating to these conditions to be approved before any works commence to ensure there are no unacceptable impacts arising to existing surrounding and future occupiers and on the environment.
23. Conditions are also required in relation to tree removal and on the timing of the removal of trees, hedgerows and shrubs during the main bird breeding season to prevent harm to wildlife and protected species.
24. Conditions are necessary to ensure adequate drainage of the site, for both surface water drainage and foul water drainage. Conditions are also needed relation to the attenuation pond and a verification report in the interest of flood prevention. Although some information has been submitted by the appellant in relation to drainage, I have amended the suggested surface water drainage condition, requiring details to be submitted and agreed with the local planning authority. I don't consider a separate condition requiring a detailed assessment for the destination of the surface water to be necessary as the design of the drainage is adequately addressed by the other surface water condition.
25. Conditions are necessary requiring the provision of parking, the details of external lighting and the provision of an open space area in the interests of highway safety, in the interests of visual amenity and the living conditions of future occupiers. A number of conditions are also necessary to limit the number, the height and to define the lodges subject of this decision.
26. I have found that a condition is necessary to limit the use for holiday purposes and that such a condition is enforceable for the reasons set out above. This condition should limit occupation by any person(s) to no more than 28 days in a rolling 52-week period rather than the longer period sought by the appellant as this is necessary in order to ensure that the lodges are used for visitor accommodation rather than longer term occupation more akin to permanent residential use.
27. A condition has been suggested requiring a one-way traffic system on the wider site. I don't however consider the operation of the internal access roads would

detrimentally affect highway safety on this gated site where the width of the access points to Mickley Lane allow for two vehicles to pass.

Conclusion

28. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is allowed.

F Rafiq

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: Site location Plan (1310-0005-002) and Illustrative Site Layout (1310-0002-013).
- 3) No development shall commence until an assessment of the risks posed by any land contamination has 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(s), to remediate the site to render it suitable for the approved development shall have been submitted to and approved in writing by the local planning authority before the development is commenced. The site shall be remediated in accordance with the approved measures and timescale(s) and a verification report shall have been submitted to and approved in writing by the local planning authority before any part of the development is occupied. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until provision has been made for additional remediation measures in accordance with details and timescales that shall first have been 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, including the additional measures, shall have been submitted to and approved in writing by the local planning authority before any part of the remaining development is occupied.
- 4) No development shall commence until an intrusive site investigation has been carried out to establish the risks posed to the development by past coal mining activity and the results of the site investigation have been submitted to and approved in writing by the local planning authority. If any land instability issues are found during the site investigation, details specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted and a timetable for implementation of those measures shall be submitted to the local planning authority for written approval before development is begun. The site shall be remediated in accordance with the measures and timetable as approved.
- 5) No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority of a scheme of landscaping, including the ongoing management and maintenance of the landscaped areas. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and any trees and/or hedgerows to be removed. All planting, seeding or turfing in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and thereafter maintained in accordance with the approved details; 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.

- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the trees and hedgerows to be retained and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and hedgerows shall be carried out as approved and remain in place throughout the construction period for the development.
- 7) No development shall commence until a scheme for biodiversity protection, mitigation and enhancements has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the retention of existing biodiversity rich features, provision of bird and bat boxes, connectivity for wildlife, habitat creation, including by utilising the attenuation pond, and ecologically beneficial landscaping. The scheme shall include timescales for implementation and details (with timescales) for ongoing management and maintenance of all open areas within the development. The scheme shall be implemented in accordance with the approved details and timescales. The ongoing management and maintenance measures, as approved, shall be adhered to for the life of the development.
- 8) No development shall commence until details of measures for the avoidance of surface water run-off from the site during the construction phase and a timescale for implementation have been submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the details and timescale as approved and shall remain in place for the duration of the construction phase of the development.
- 9) No development shall take place, including any works of site preparation or preparatory work, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - (i) the parking of vehicles of site operatives and visitors;
 - (ii) loading and unloading of plant and materials;
 - (iii) storage of plant and materials used in constructing the development;
 - (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (v) wheel washing facilities;
 - (vi) measures to control the emission of dust and dirt during construction;
 - (vii) a scheme for recycling/disposing of waste resulting from construction works;

- (viii) delivery and construction working hours.
- (ix) access to the site for construction traffic.

The methods in the approved Construction Method Statement shall be put into place prior to the commencement of development and adhered to throughout the construction period for the development.

- 10) No tree removal works shall be undertaken until a general methodology for the removal of trees on the site has been submitted to and approved in writing by the local planning authority. The tree removal works shall be carried out in accordance with the approved methodology.
- 11) No removal of hedgerow, trees or shrubs shall take place during the main bird breeding season between 1 March and 31 August inclusive unless a licensed ecologist has undertaken a nesting bird survey immediately before any works start and submitted a report to the Local Planning Authority and received approval in writing from them. If nesting birds are present, the report shall contain details on the appropriate exclusion zone(s) and other measures in place to protect nesting bird interest on the site. The works shall be undertaken in accordance with the approved measures.
- 12) No part of the development hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - (i) Details of the design of the scheme which shall be a sustainable drainage scheme unless an assessment of ground conditions has shown that to be impracticable;
 - (ii) Details of the design of the attenuation pond;
 - (iii) Details of the assessment of ground conditions undertaken;
 - (iv) A timetable for implementation; and
 - (v) A management and maintenance plan which shall include the arrangements for adoption by any public body or statutory undertaker, and/or any other arrangements to secure the effective operation of the drainage scheme throughout the lifetime of the development.

The drainage scheme shall be maintained in accordance with the details as approved.

- 13) No part of the development hereby permitted shall be occupied until a scheme for foul drainage shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The scheme shall include details and timescales for its ongoing management and maintenance. The approved scheme shall be maintained in accordance with these details.
- 14) The attenuation pond shall not be brought into use until design details in line with CIRIA SuDS manual C753 and to the agreed specifications in the

"Conceptual Drainage Plan" referenced D001 Revision B (dated April 2020 by RPS Group) have been submitted to and approved in writing by the local planning authority. An associated management and maintenance plan should also be submitted to and approved in writing by the local planning authority. The pond shall be constructed in accordance with the approved details and the management and maintenance of the attenuation pond shall thereafter be in accordance with the approved details.

- 15) No part of the development hereby permitted shall be occupied until a verification report carried out by a qualified drainage engineer has been submitted to and approved in writing by the local planning authority. The report shall demonstrate that the drainage system has been constructed as approved, provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
- 16) No lodge shall be occupied until 2 car parking spaces have been provided for use by occupants of that lodge. The parking spaces shall be retained and kept available for use for this purpose.
- 17) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the lodges are occupied. Development shall be carried out in accordance with the approved details.
- 18) No element of any lodge on any part of the development hereby permitted shall exceed 4 metres in height as measured from the immediately adjacent existing ground level at its lowest point.
- 19) No part of the development hereby permitted shall be occupied until the field annotated as "Open Space and Recreational Area" on the Illustrative Site Layout plan Ref: 1310-0002-013 is made available for use by the occupiers for recreational purposes. The field shall thereafter be retained and kept available for use for this purpose.
- 20) No more than 40 lodges shall be stationed on the site at any time.
- 21) Each lodge shall be of a type falling within the statutory definition of "caravan" as set out in S29(1) of the Caravan Sites and Control of Development Act 1960 and S13(1) of the Caravan Sites Act 1968 (as amended).
- 22) Each holiday lodge hereby permitted shall be used as holiday accommodation for tourists only and shall not be occupied by any person(s) as their sole or main place of residence. No person(s) shall occupy any lodge for a period exceeding 28 days in any rolling 52-week period. An up-to-date register for each lodge shall be maintained which shall record the name(s) of all persons who have occupied the lodge, the length of stay and their main home addresses and the information shall be retained over a rolling 10 year period. The register shall be made available to the local planning authority on request.

End