



Appeal Decision

Site visit made on 21 June 2022

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022

Appeal Ref: APP/A2335/W/22/3293169

Field 7471, to the South of Moss Lane, Moss Lane, Thurnham, Lancaster LA2 0AX

- 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 Peter Sandford, Lancaster & Morecambe Model Aircraft Club against the decision of Lancaster City Council.
 - The application Ref 20/01174/FUL, dated 23 October 2020, was refused by notice dated 9 December 2021.
 - The development proposed was originally described as '*change of use of land for flying model aircraft, and provision of parking for members' cars during flying sessions*'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises '*the change of use of agricultural land for flying model aircraft, provision of parking for members' cars during flying sessions and the siting of a storage container*'. The Council dealt with the proposal on this basis and so shall I.

Main Issues

3. The main issues are i) the effect of the proposed development on the character and appearance of the surrounding area; and ii) whether the proposed use would adversely affect the ecological integrity of the European designated nature conservation site(s) in Morecambe and Duddon Estuary Special Protection Area (SPA) and Ramsar.

Reasons

Character and Appearance

4. Policy EN3 of A Local Plan for Lancaster District 2011-2031, Part One: Strategic Policies and Land Allocations, 2020 (SPLADPD), relates to development in the open countryside and proposals should have due regard to all relevant policies within the Local Plan. In this regard, Policy DM29 of the A Local Plan for Lancaster District 2011-2031, Part Two: Review of the Development Management DPD, 2020 (DMDPD) sets out the key design principles of new development and that it should make a positive contribution to the surrounding landscape, including amongst other matters the identity and character of the area through good design, local distinctiveness, appropriate siting and layout.

5. Policy DM46 of the DMDPD advises that the council will attach great weight to the protection of nationally important designated landscapes and local landscape designations. It also considers development, which is outside of protected and designated landscapes, and sets out that these are valued and provide a distinct sense of place of which, the Council seeks to protect and enhance. The Council will support development, outside of protected and designated landscapes which is in scale and keeping with the landscape character and is appropriate to its surroundings, in terms of siting, scale, massing, design, materials, external appearance and landscaping.
6. The appeal site relates to an open and flat area of agricultural grassland, cropped regularly for silage within the open countryside. It is not a protected or designated landscape, but the wider area extends to Morecambe Bay and the Lune Estuary. Therefore, it would fall to be considered under the context of Policy DM46, and in particular I see no reason why it would not relate to the criteria in that policy of being 'outside of protected and designated landscapes'.
7. The appeal site is accessed from a narrow and winding track off Moss Lane which leads to a network of fields. The character and appearance of the immediate and surrounding area is swathes of low-lying open land in the countryside and the fields are in use for the purposes of agriculture. It is away from any settlements and given the flat topography of the area significant views are afforded from the surrounding fields and the wider area of the open countryside.
8. To facilitate the proposed use of flying model aircraft, the proposal would introduce a substantial sized portacabin within the landscape, sited into an area which is devoid of any structure or built form. This would appear as an incongruous and unacceptable visual element, reducing the openness to the detriment of the character and appearance of a visually important part of the landscape and open countryside. The green colour would do little to prevent its overall urbanising appearance.
9. Furthermore, given its size and degree of permanence it would be unlikely that this would be a moveable structure, and I have no substantive evidence that it would not remain at the site for long periods of time. There is also no comparison to the container being seen in and around agricultural premises, as it would be sited in isolation within a field, and have no relationship to any existing agricultural premises.
10. I acknowledge, there are elements of stone chippings, which appeared mostly embedded with grass, but this area was minimal and does not represent an existing suitable hardstanding for any vehicular parking. The proposal would create a relatively large car park, where there is none and introduce new hardstanding areas with spaces for 12 parked cars.
11. The introduction of a car park, further clean stone, maintenance improvement, likely need for some levelling out for safe and suitable access/manoeuvring and additional associated commercial paraphernalia needed when flying the model aircraft, would result in a negative cumulative visual impact to this undeveloped landscape. It would considerably alter the current natural landscape form, engineered to the purposes of the proposed use and to the detriment of conserving or enhancing the character and appearance of the immediate area and open countryside.

12. For the reasons given above, I conclude that the proposed development would be significantly harmful to the character and appearance of the area. It would be in conflict with Policies DM29 and DM46 of the DMPDP, and Policy EN3 of the SPLADPD, as I have already set out above.
13. It would also be at odds with the National Planning Policy Framework (the Framework), Chapter 12 achieving well-designed places and Chapter 15 conserving and enhancing the natural environment, particularly in respect of being sympathetic to the local character and recognising the intrinsic character and beauty of the countryside.

Ecological Integrity

14. Ecological implications require that competent authorities under The Conservation of Habitats and Species Regulations 2017 (as amended) carefully consider the ecological impacts of projects on Habitats sites, and whether those impacts may have an adverse effect on the integrity of a Habitats site that requires mitigation including, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects).
15. The appeal site is within close proximity of the Morecambe Bay and Duddon Estuary SPA and Ramsar, which includes the Wyre Estuary Site of Special Scientific Interest (SSSI) and within the buffer zones. The Bay and the Estuary are designated as they support internationally important bird populations, including seabirds, wading birds and habitats that support the birds. It is important that developments likely to affect biodiversity contain adequate, up-to-date information to effectively evaluate the impacts.
16. The appellant submitted a biodiversity report¹, this included site visits, a desk search of records of notable species and designated ecological sites. Surveys were carried out to consider whooper swan and other notable bird species. The results and conclusions indicate that there would be no likely significant effect, but it also sets out there is potential for disturbance during construction works, some disruption limited to winter days for arrival/departure and that the flying of model aircraft is comparative to 2012 and the existing site at Jeremy Lane.
17. The Greater Manchester Ecology Unit (GMEU) carried out a Habitats Regulations Assessment (HRA) of the proposal, on behalf of the Council. The screening of potential impacts, highlights that flying model aircraft could generate noise and visual disturbance sufficient to cause disturbance to important bird species. The surrounding land may be functionally linked to the site. Resulting in likely significant effects. GMEU carried out an Appropriate Assessment (AA) as the site is considered to have some potential to cause noise and visual disturbance to bird species, notable bird species of pink footed geese and whooper swans associated with the designated site.
18. Additional information by the appellant, including surveys, winter flying conditions and studies do not appear to have resolved the concerns of GMEU. GMEU are of the view that it has not been demonstrated beyond reasonable scientific doubt that the proposal would not effect the qualifying species of the SPA and Ramsar and the use of the zone of influence (impact zone) utilising functionally linked land.

¹ Biodiversity Report (Revised) & Habitats Regulations Assessment, Graham Skelcher, dated February 2021

19. Natural England (NE) responded to the planning application, on the basis that it could have potential significant effects on Morecambe Bay & Duddon Estuary SPA and Ramsar including land functionally linked to those designations. It was advised that the assessment of bird usage of the site and surroundings to inform a HRA is required. NE were further consulted with the contents of the appellants' biodiversity report and have an objection to the proposal. NE consider that the proposal will have an adverse effect on the integrity of the SPA, and damage or destroy the interest features for which Lune Estuary Site of SSSI has been notified.
20. Furthermore, I acknowledge that there have been objections from Lancaster and District Birdwatching Society and Fylde Bird Club, Lancashire and The Royal Society for the Protection of Birds (RSBP), of which the appellant disagrees with their assessments. Primary objections were that there are not robust ecological surveys undertaken or adequate surveys of wintering whooper swans. The RSBP stated the proposal has the potential to directly affect nationally important numbers of whooper swans on their winter-feed grounds, and there are potential direct impacts on a qualifying feature of the SPA.
21. Consequently, whilst there appears to be significant disagreement between the main parties relating to the data, surveys and methodologies, I have no substantive evidence that, the proposal would not have a significant adverse effect on the integrity of the SPA and Ramsar.
22. Nevertheless, the responsibility for assessing the effects of the proposal on the European designated site(s) falls to me as the competent authority. Notwithstanding the above, were I minded to allow the appeal, I would need to carry out an AA before considering the proposed 'possibly' mitigation from the appellant, since the proposal would be likely to have a significant effect on the SPA and Ramsar. However, as the first main issue provides a clear reason for dismissing the appeal, I have not had cause to pursue undertaking an AA. As such, I do not need to consider this matter further, since any findings on this issue would not change the appeal outcome. For the avoidance of doubt, even if I had done a AA and identified no adverse effect, it would not have affected my overall conclusions on this appeal.

Other Matters

23. The appellants' evidence heavily relies on the consent which was granted on the Jeremy Lane site first in 1996², then a subsequent permanent consent³. In coming to my decision, I have had regard to this site. Although, there may be some similarities with the appeal site and the proposal, and as I observed at the time of the site visit it is a distance away at some 2km. This should not be seen as setting a precedent for new development or where there is to be a different land use. Furthermore, it would appear that the site was granted consent under different local policies, consultations with relevant statutory bodies were done a significantly long time ago and were site specific to Jeremy Lane, including planning history and that not all identified species were a qualifying species at that time.

² 96/00758

³ 13/0554/RCN

24. I accept that the activities at the site at Jeremy Lane may have been monitored and the club have been proactive over the years. However, just because of this historic activity and that the development had been granted, does not justify the approval of further harmful development. I do not consider that any temporary condition, or restrictive conditions suggested would outweigh the harm I have identified, or be precise, enforceable and reasonable in all other respects. In any case, I have dealt with the appeal on its own considerations, on the basis of the evidence and site observations.
25. The appellant has referred to the Framework and that it supports such activities as model aircraft flying as a sport. Whilst this may be the case, the Framework does not go without being caveated, in that decisions should contribute to and enhance the natural and local environment. I have no substantive evidence that it would deliver wider community benefits, other than to existing members of the LAMMAC. I acknowledge that the club, requires to relocate to an alternative field. However, I am not satisfied from the evidence that this is the only site available or that it has to be within this specific location in open countryside.
26. Although the proposed development would not cause any harm to living conditions of nearby residents, highway safety, flood risk, and the site would have better drainage in rainfall, be more accessible with parking on site, and be better located than Jeremy Lane. These considerations are neutral weighing neither for nor against the proposal.
27. The appellant has pointed out that there are flaws within the officer's report. I note that the Council have accepted that there have been typographical errors. Be that as it may, I do not consider this leads to the precise circumstances of the case and proposal being unacceptable. Moreover, I have determined the appeal on the evidence before me, including plans, supporting information, local and statutory consultee responses.

Conclusion

28. The proposed development would cause significant harm to the character and appearance of the surrounding area, it would be contrary to the development plan, taken as a whole. There are no other material considerations, including the Framework that would indicate that the proposed development should be determined other than in accordance with the development plan.
29. For the reasons given above, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR