
Appeal Decision

Site visit made on 27 September 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Appeal Ref: APP/G2713/W/22/3299131

Land to the Southeast of Wellfield Farm, Whenby Lane, Whenby

- 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 Whenby Luxury Lodges against the decision of Hambleton District Council.
 - The application Ref 21/01892/FUL, dated 30 July 2021, was refused by notice dated 11 January 2022.
 - The development proposed is a holiday lodge park.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. After the refusal of planning permission, the Hambleton Local Plan (LP) (adopted February 2022) was adopted in February 2022. The Council has provided copies of the most relevant policies. Given the submission of the appeal post-dates the adoption of the LP, I am satisfied that all parties have had a suitable opportunity to comment on the implications of the relevant policies.
3. After the refusal of planning permission, but prior to the submission of the appeal, the Council was provided with an Arboricultural Survey and Impact Assessment with an updated site layout. As a result, the second reason for refusal given on the decision notice, which relates to the impact of the proposal on trees, is no longer contested.
4. The aforementioned amended plans include changes such as lodges being moved minimal amounts and the access road moving around a tree. The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application (Annexe M.1.1). If an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought (Annexe M.2.1).
5. Notwithstanding that, in deciding whether to accept these revised plans, I have given consideration to the 'Wheatcroft Principles'¹ and whether any prejudice would occur. The Council has commented on the plans and has no objection to

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

the changes being considered in the determination of this appeal. This is confirmed in the submitted Statement of Common Ground. While third parties have not had this opportunity, the changes are minor and do not evolve the scheme or change it in a material way. As such, I do not feel prejudice would occur if these plans were considered and have considered the proposal based on these minor changes.

Main Issue

6. The main issue is whether the appeal site is a suitable location for the proposed development.

Reasons

7. The appeal site is located off Whenby Lane, in a rural area between the settlements of Whenby and Sheriff Hutton. Access would be taken from the highway through a field to the appeal site, for a development which would comprise eight timber lodges set around a body of water to be used for visitor accommodation.
8. Policy EG8 (D-H) of the LP outlines the circumstances where new tourist accommodation will be supported. It is generally accepted between the parties that the proposal would meet the criteria of parts D-F of EG8.
9. Part G stipulates new visitor accommodation will be supported where it can be demonstrated that a proposal for a new, or an extension to an existing, caravan, camping or holiday chalet site is accessible to local services and public utilities. Part H states that new visitor accommodation will only be supported where it is demonstrated that where a countryside location is proposed, the development cannot be located within or adjacent to the built form of an identified settlement in the settlement hierarchy, see policy 'S3: Spatial Distribution', and it will be accessible by sustainable travel options.
10. Whenby is the closest settlement to the appeal site and is identified as a 'Small Village' in S3. However, from my observations on the site visit it had no services or utilities, and I have not been made aware of any by either party. Sheriff Hutton is located at a distance of circa 3km from the appeal site and includes some services and utilities, including a pub and a shop. However, the road from the appeal site to Sheriff Hutton is narrow, unlit and has no paved footpath. As such, walking to these services is unlikely to be a desirable option for most future visitors, particularly those with mobility issues or young children, and most visitors would in all likelihood favour private vehicles.
11. I take on board the justification text of Policy EG8, which states that the policy seeks to direct new tourism-related development to the district's market towns and villages but recognises that this will not always be possible. However, the text goes on to state that where this can't be achieved applicants will be required to provide evidence to justify the proposed location and demonstrate that the development will not cause harm to or be prominent in the landscape. There is no landscape harm identified and I see no reason to disagree.
12. However, there is little substantive justification for the proposed location other than from a marketing orientated approach insofar as a waterside setting would appeal to visitors seeking to 'get away from it all'. I have nothing before me demonstrate why other locations adjacent to, or within, settlements cannot

- offer a tranquil and relaxing experience in a rural area, other than the lakeside setting. The required justification for the location is therefore lacking.
13. I have had regard to both the 'Green Travel Plan' and 'Travel Information Pack' submitted by the appellant which seek to encourage the use of walking, cycle routes and public transport. This includes a map of local rights of way and bridleways (Figure 1). However, none of these routes head directly towards Sheriff Hutton or other settlements and would take an indirect and somewhat meandering course which would not be practical or convenient for access on foot.
 14. There are National Cycle Network routes circa 8.6 miles from the appeal site. However, while this may appeal to experienced cyclists, this arrangement would not be suitable for the majority of visitors given the distances involved along narrow roads such as Whenby Lane.
 15. I am informed that bus services are available in Sheriff Hutton, including the No 182 and a 'CastleLine' service. However, it is unlikely visitors would choose to cycle to the bus stop. Even if this option was chosen, I did not observe any facilities to safely secure bicycles in proximity to the bus stops.
 16. My attention is drawn to the 'Ryedale Rover Service', an on-demand 'dial and ride' service running between Malton and Helmsley. I am informed the appeal site is within the catchment area. Evidently, this service only runs on a Tuesday and Friday and the scheduled stops are limited, with none in the vicinity of the appeal site. Although reference is made to verbal agreements to include the appeal site on a list of stops, this cannot be relied upon. There is also reference to a Ryedale Community Transport bus service between Foston and Malton which runs on Thursday and Saturday, although there is nothing substantive before me on this matter, such as whether this would call near the appeal site. In any event, both would be contingent on demand and were this to cease, so would the service.
 17. My attention is drawn to numerous other planning applications approved by the Council both prior to, and since, the adoption of the LP. This demonstrates some general support for visitor accommodation, although I note some of these differ in terms of being previously developed or closer to settlements. Particular attention is paid the development at Witterholme Hall² northeast of Whenby, for which I am provided with a site location plan and the officer report. From the evidence before me, there are inevitable similarities to the appeal proposal, including the distance from the same, and therefore nearest, settlement. While consistency in decision making is important, the approval of this other application does not lead me to conclude that the proposal before me is acceptable. I have formed my own judgement and assessed this proposal on its own merits based on the evidence before me.
 18. To conclude, the proposal would be contrary to Policies S1, S3, S5, and EG8 of the LP which generally seek, among other things, to ensure development, such as visitor facilities, is located appropriately.

Planning Balance

19. Paragraphs 84 and 85 of the National Planning Policy Framework (the Framework) offer support for a prosperous rural economy. However, this

² 22/00383/FUL

support is not unconditional. From the information before me this is a new enterprise rather than the expansion or diversification of an existing rural or land-based business and as I have identified, the site has a lack of suitable and sustainable travel options.

20. While paragraph 85 advises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport, this is contingent on other factors, such as exploiting any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). I have concluded these factors would not be met by the proposal.
21. The development of visitor accommodation in this location would produce some economic benefits through initial spending to rent the lodges. However, it is unclear as to how this would benefit rural communities and would in all likelihood be of private benefit to the appellant. Subsequent trips to visitor attractions and towns and villages for services and facilities would benefit from increased spending. In light of the increased demand for 'staycations' highlighted in the evidence provided, this attracts some positive weight in favour of the scheme. However, the scale of the proposal is small, and as such the economic benefits are therefore likely to be limited, which in turn offers limited weight in favour of the scheme.
22. Although employment is given as a further benefit, there are few substantive details on this matter other than an arbitrary figure of 10 full and part time jobs to be created. There is nothing to indicate what these jobs would entail, particularly as the appeal statement advises that the appellant and their family would run the site. As such, I can only afford limited weight towards the proposal in this regard.
23. The Council has referenced some additional concerns regarding impacts on dark skies and a lack of biodiversity gains in the context of the subsequently adopted LP. However, there are few substantive reasons given in their appeal statement for these concerns. Given I am dismissing the appeal on other matters, I have not considered these further.

Conclusion

24. The proposal would conflict with the development plan taken as a whole and while I have considered the benefits of the proposal, these would not outweigh this harm. Therefore, the material considerations cited in support of the proposal do not outweigh the harm I have identified or indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR