



Appeal Decisions

Site visit made on 8 November 2022

by M Madge DipTP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2022

Appeal A Ref: APP/Y2003/C/22/3296113

Land at Hunters Lodge, Church Street, Elsham DN20 0RG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr John Porter against an enforcement notice issued by North Lincolnshire Council.
 - The notice, numbered EN201, was issued on 7 March 2022.
 - The breach of planning control as alleged in the notice is without planning permission the erection of three raised platforms, a camping pod and a shelter.
 - The requirements of the notice are:
 - i. Demolish the camping pod, the three raised platforms, and the shelter (as shown annotated on the Photo montage annexed to this Notice; and as shown on the Plan2- EN201 also annexed to this Notice).
 - ii. Remove all resultant materials from undertaking requirement i. from the site.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/Y2003/W/22/3296112

Land rear of Hunters Lodge Fishery, Church Street, Elsham DN20 0RG

- 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 John Porter against the decision of North Lincolnshire Council.
 - The application reference PA/2021/591, dated 28 February 2021, was refused by notice dated 10 December 2021.
 - The development proposed is planning permission for the erection of 5 wooden camping pods and 1 wooden toilet block.
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Decisions - Appeal A

1. The appeal is dismissed, and the enforcement notice is upheld.

Appeal B

2. The appeal is dismissed.

Preliminary Matters - Appeal B

3. The application form identifies the site address as 'Ponds rear of...'. The development is proposed to be erected on land. The Council's decision and the appeal form use 'Land to the rear of...' and the appeal form provides a postal code. For precision, I shall use the site address set out in the appeal form.
4. The description of development on the application form includes the erection of 6 wooden camping pods and 1 toilet block as well as detailing how many people each pod will sleep, colour finishes, number of toilets and means of foul water disposal. For precision, I shall use the Council's description set out on the refusal notice, as confirmed by the appellant on the appeal form.

APPEAL A - Ground (f)

5. The purpose of this notice is to remedy the breach of planning control. An appeal on this ground is that the requirements set out in the notice exceed what is reasonably necessary to remedy the breach, and lesser steps could be taken.
6. The steps require the demolition of the 3 raised platforms, a camping pod and a shelter, and the removal, from the site, of all resultant materials caused by that demolition. These steps are precise and unambiguous. Allowing the retention of the 3 raised platforms, would not remedy the breach of planning control specified. The steps do not therefore go beyond what is reasonably necessary to remedy the breach.
7. The appeal on ground (f) fails.

Ground (g)

8. The appellant argues that one month is insufficient to comply with the requirements, as bookings may have already been taken for the facilities and it would be unreasonable to cancel bookings on short notice. The shelter has already been removed and the other facilities would only have been available for bookings between 1 April and 31 October. If bookings have been taken for April 2023 onwards, cancelling those bookings now would not be at short notice.
9. The appeal on ground (g) fails.

Overall Conclusion on Appeal A

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

APPEAL B - Main Issues

11. The main issues are the effects of the proposed development on:
 - The character and appearance of the local landscape, in particular views of the hillside; and
 - The Site of Local Nature Conservation Importance and protected species.

Reasons

12. The site is part of the Hunters Lodge Fishery complex, which comprises of 4 lakes, a café and associated parking areas. The complex is located at the foot of the hillside. The site is surrounded by mature woodland and additional tree planting has been undertaken.

Character and Appearance

13. The site is located on the edge of the village and incorporates a steep gradient up the hillside. The outer boundaries of the field, within which the proposed development would sit, are defined by mature hedgerows and woodland. The field itself is however open and devoid of built development, which positively contributes to the surrounding verdant rural landscape. The site is particularly visible from the adjacent road network; New Street and the B1206.

14. The proposed camping pods and toilet block would be seen against a hedgerow backdrop. Their siting, just below the ridge line, would however be visually incongruous due to their angular shape and appearance as well as their regular spacing across the hillside. At night, the camping pods and toilet block would remain discernible due to their associated lighting.
15. Further visual intrusion would arise because of the increased human activity and paraphernalia normally associated with holiday accommodations, although this would only occur during the season of April through to the end of October. The development would therefore cause significant harm to the scenic quality and the distinctive character of the local landscape.
16. Preventing guests from parking their vehicles near the pods and strictly controlling the presence of leisure equipment throughout the site may go some way to reducing the proposal's visual impact on the landscape. While such things could be conditioned, monitoring compliance would be unreasonably onerous and practicably impossible. In any case, this would not overcome my concerns regarding the cumulative visual effects on the scenic quality and distinctive character of the local landscape.
17. Existing tracks of cut grassland may already be visible, but these do not suggest a level of human activity that would be associated with 5 camping pods occupied by families. While the siting of the camping pods may provide future guests with spectacular views and a peaceful location, that does not outweigh the harm that would be caused by the buildings' visual dominance in the landscape.
18. Additional landscaping could, in the long term, screen the proposed development when viewed from New Street and the B1206. However, that landscaping would not address the significant visual intrusion in the short term.
19. For these reasons, the proposed development is contrary to policies DS1 and LC7 of the North Lincolnshire Local Plan (May 2003) and policy CS5 of the Core Strategy (June 2011), which seek to protect the scenic quality and distinctive local character of the local landscape, amongst other things.

Ecology

20. The site is located within a Site of Importance for Nature Conservation encompassing calcareous grassland, rough grassland, scrub, woodland, chalk springs, ponds and a varied mosaic of marsh and wetland vegetation. The site is therefore capable of accommodating a variety of protected mammals, breeding birds, invertebrates, reptiles, and protected plants.
21. The fishery and café have established a degree of human activity and maintenance on the site. The development still has the potential to adversely affect wetland habitats through water-borne pollution, increasing nutrient levels, loss of habitats through the erection of buildings, and potential increase in grassland management.
22. Furthermore, adults may be content to sit quietly within the camping pods or on their wooden decking, however children will take advantage of the open expanse of grassland to run and play. This increased visitor disturbance has the potential to further erode habitat and cause additional disturbance to wildlife.

23. Even if I were to accept that the Eurofins survey found no evidence of great crested newts or other areas of concern on the site, it was undertaken in 2020 and does not provide an up-to-date assessment of the site. DEFRA's Magic map application holds maps and data on the natural environment, such as habitats and species. The extract provided only shows data relating to great crested newts and is not a comprehensive assessment of the site in real time.
24. In the absence of appropriate ecological assessments of the site, consideration cannot be given to potential impacts of the development and any necessary mitigation measures cannot be identified. Biodiversity enhancements cannot be secured through condition as there is no evidence to justify it.
25. For these reasons, the proposal is contrary to policies LC4 and LC5 of the North Lincolnshire Local Plan (May 2003) and policy CS17 of the Core Strategy (June 2011), which seek to safeguard a site's intrinsic nature conservation value, amongst other things.

Other Matters

26. The use of 3 Bell Tents in 2020 may have confirmed that there is a market for this form of family holiday accommodation, to take advantage of the spectacular views and peaceful location. The proposed development would make a small, positive contribution to the local economy, but this does not outweigh the landscape and potential ecological harms I have identified above.

Conclusion on Appeal B

27. For the reasons given above, I conclude that the appeal shall be dismissed.

M Madge

INSPECTOR