



Appeal Decision

Site visit made on 22 November 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2022

Appeal Ref: APP/Y2003/W/22/3303366

Butterwick Road, Messingham, North Lincolnshire, DN17 3PA

- 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 Trevor Binks & Ms C Allen against the decision of North Lincolnshire Council.
 - The application Ref PA/2021/999, dated 8 April 2021, was refused by notice dated 11 February 2022.
 - The development proposed is erection of six holiday lodges.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of six holiday lodges at Butterwick Road, Messingham, North Lincolnshire DN17 3PA in accordance with the terms of the application, Ref PA/2021/999, dated 8 April 2021, subject to the Schedule of Conditions set out at the end of this decision.

Procedural Matters

2. The appellants have submitted an Outline Sustainable Drainage Survey as part of this appeal which did not form part of their application to the Council. I have not been made aware of any drainage information that was submitted as part of the application other than the arrangements shown on drawing number 030321-05. The Planning Inspectorate's guidance states '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'. When considering whether to accept amended information, regard should be had to the Wheatcroft Principles. These arise from a High Court judgement which established that the main, but not the only, criterion on which the judgement should be exercised is whether the development is so changed that to grant it would be deprive those who should have been consulted on the changed development of the opportunity of such consultation. An integral part of the legal test is the issue of fairness to interested parties.
3. The Outline Sustainable Drainage Strategy therefore forms new information upon which interested parties may have wished to comment. I consider there could be prejudice to interested parties were I to consider this strategy and as such I have not taken it into account in determining this appeal.

Main Issue

4. The main issue is whether the development and neighbouring properties would be safe from flooding with particular regard to surface water drainage.

Reasons

5. The appeal site is generally flat and largely grassed. It is set back from Butterwick Road and accessed via an unmade track. There is a combination of fencing and landscaping to the site boundaries. There are what appears to be brick built residential buildings adjacent to the site. I observed the land between the site and Butterwick Road to have caravans sited on it.
6. The application form states the site is not within an area at risk of flooding as shown on the Environment Agency's Flood Map and is therefore within Flood Zone 1. The site is therefore at the lowest risk of river and sea flooding. The Environment Agency were consulted on the application and did not make any comments.
7. The application form advises that surface water would be disposed of via soakaway, and a soakaway/bog garden is indicated on the proposed site layout plan for each plot. The appeal proposal involves a limited scale of development which would increase surface water run-off. There is no substantive evidence before me to show that the site is at any elevated risk of surface water flooding or that the ground conditions are such that it could not be appropriately drained. I also note the comments of the Lead Local Flood Authority who have not objected to the scheme. There is no evidence before me that the site is at risk from any of the other types of flooding identified in the Planning Practice Guidance¹
8. In relation to this main matter, I therefore conclude that, subject to relevant conditions being imposed as discussed below, the development and neighbouring properties would be safe from flooding and that appropriate provision can be made to manage surface water drainage. The appeal proposal therefore accords with North Lincolnshire Local Development Framework Core Strategy adopted June 2011 Policy CS19 which seeks to site development to avoid areas of current or future flood risk and which do not increase the risk of flooding elsewhere. It also accords with North Lincolnshire Local Plan adopted May 2003 Policies DS14 and DS16 which require satisfactory provision to be made for the disposal of surface water and for development to avoid floodplains.

Other Matters

9. Concerns have been raised that the proposed use would be too close to the village of Messingham. The site is located away from the built edge of the village, and no specified harms arising from its location have been identified. I also note that the site is set back from the road. The appeal site would therefore not be perceived as forming the entrance to the village. Furthermore, landscaping is proposed around the lodges which could be secured by condition and would help to integrate the development into the surrounding area. No concerns have been raised with regard to the appearance of the lodges. I therefore consider the appeal proposal would not have a detrimental visual impact and would acceptably assimilate with its surroundings.
10. Given the limited scale of the development in terms of number of lodges and bedrooms within each lodge, it is likely that any noise and disturbance arising

¹ Flood risk and coastal change Paragraph: 001 Reference ID: 7-001-20220825

would be limited and unlikely to materially affect the enjoyment of nearby allotments.

Conditions

11. The Council has suggested several conditions should the appeal be allowed. I have had regard to these in light of the advice contained within the National Planning Policy Framework (the Framework) (July 2021) and the Planning Practice Guidance. As a result, I have made amendments to some of them for consistency and clarity purposes. In the interests of certainty, I have imposed a condition stipulating the approved plans.
12. In the interests of promoting biodiversity, a biodiversity management plan is a reasonable requirement in accordance with the considerations of the Council's Natural Environment Policy Specialist. This would need to be submitted prior to the occupation of any of the lodges to ensure that mitigation and enhancements come forward at an appropriate time. For the same reason of promoting biodiversity, a separate condition is required to secure the implementation of measures to be contained within the biodiversity management plan, as well as the retention of implemented features. I do not consider it necessary to require evidence of implementation to be provided. I have also deleted a tailpiece clause as it could allow changes without providing interested parties with the opportunity to comment.
13. In the interests of protecting the character and appearance of the rural area, a landscaping condition is reasonable and necessary. In the interests of guarding against any risk associated with land contamination, a condition to require further investigation should evidence of contamination be identified during development is also reasonable and necessary to impose.
14. A condition in relation to access and parking facilities is reasonable and necessary in the interests of highway safety and to ensure appropriate provision is made and subsequently retained. Reference to the use of permeable materials is necessary in the interests of surface water management.
15. In recognition that the site is not suitably located for permanent residential accommodation, conditions are reasonable and necessary to ensure that the holiday lodges are occupied only for holiday purposes and not as any person's sole or main residence. For the same reason, an up-to-date register of all owners/occupiers at the site is reasonable to secure via condition.
16. While there is reference in the Council's Committee Report to a drainage condition being not necessary or reasonable, reference is made in the same report to the retention of gardens with soakaways and parking areas constructed from permeable materials. While I have addressed the issue of permeable materials above, there is no mechanism in the conditions as proposed by the Council to secure the retention and management of soakaways/ bog gardens. I therefore consider a condition similar to that recommended by the Lead Local Flood Authority is reasonable and necessary. I have amended the level of detail required to ensure that the condition is reasonable in relation to the scale of the development. In accordance with the suggestions of the relevant statutory undertaker and in the interests of water quality and minimising the risk of pollution, I have included a requirement for the scheme to include details of how foul water would be managed/disposed of.

Conclusion

17. For the reasons given above, the appeal scheme complies with the development plan when read as a whole and material considerations do not lead me to a decision otherwise. As such, the appeal is allowed.

J Downs

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: un-numbered Site Location Plan, 030321-02, 030321-03 and 030321-05.
- 3) Within three months of the commencement of the development hereby permitted and prior to the first use of any of the lodges, a biodiversity management plan shall be submitted to and approved in writing by the local planning authority. The plan shall include:
 - (a) details of nest boxes and bat boxes to be installed;
 - (b) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
 - (c) provision for hedgehogs to pass through any fencing installed between gardens and between areas of grassland;
 - (d) prescriptions for the planting and aftercare of native trees, shrubs, hedgerows and wildflowers of high biodiversity value;
 - (e) details of wetland habitat to be created as part of sustainable drainage;
 - (f) details of how the measures proposed will provide at least 1% biodiversity net gain in accordance with the Defra Small Sites Metric;
 - (g) proposed timings for the above works in relation to the completion of the lodges.
- 4) The development hereby permitted shall be carried out in full accordance with the details and timings contained within the biodiversity management plan to be approved (the subject of Condition 3), and all implemented features shall be retained thereafter.
- 5) None of the holiday lodges hereby permitted shall be brought into use until a surface and foul water drainage scheme for the site has been implemented in accordance with details to have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on sustainable drainage principles and demonstrate that surface water runoff generated up to and including the 1 in 100 year critical storm (including an allowance for climate change based on the current national guidance standards) will not exceed the runoff from the existing site. It shall also include details of how the resulting completed scheme is to be maintained and managed for the lifetime of the development. The approved drainage scheme shall thereafter be retained and maintained in accordance with the approved details.
- 6) All the approved landscaping, as depicted on approved plan 030321-05, shall be carried out within twelve months of the development being commenced (unless a longer period is agreed in writing by the local planning authority). Any trees or plants which die, are removed or become seriously damaged or diseased within five years from the date of planting shall be replaced in the next planting season with others of similar size and species to those originally required to be planted, unless the local planning authority agrees in writing to any variation.
- 7) If, during development, any odorous, discoloured or otherwise visually contaminated material is found to be present at the site then no further development shall be carried out until a written method statement detailing how this contamination shall be dealt with has been submitted to and approved in

writing by the local planning authority. The development shall be carried out in accordance with the approved written method statement.

8) None of the holiday lodges hereby permitted shall be brought into use until permeable parking and turning facilities have been completed in accordance with the approved details shown on drawings 030321-02 and 030321-05. The facilities shall thereafter be retained in accordance with the approved details.

9) The holiday lodges hereby permitted are to be occupied for holiday purposes only.

10) The holiday lodges hereby permitted shall not be occupied as a person's sole or main place of residence.

11) The owners/operators of the site shall maintain an up-to-date register of the names of all owners/occupiers of individual holiday lodges on the site, and of their main addresses, and shall make this information available at all reasonable times to the local planning authority.

[ENDS]