



---

# Appeal Decision

Site visit made on 6 December 2022

**by J Symmons BSc (Hons) CEng MICE**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 January 2023**

---

**Appeal Ref: APP/H2733/W/22/3303810**

**Land South of the Discovery Way, The Parade, More Road, Filey YO14 9GA**

- 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 M Diana of Essential Vivendi Ltd against the decision of Scarborough Borough Council.
  - The application Ref 21/01988/FL, dated 13 August 2021, was refused by notice dated 13 May 2022.
  - The development proposed is development of a children's play area.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Bay Holiday Village is subject to two further appeals reference APP/H2733/W/22/3304550 and APP/H2733/W/22/3304553. These are for the addition of holiday homes on Plots 25 and 26 respectively. These appeals are also before me to determine and whilst there are similarities between them and this appeal, I have dealt with them separately.

## Main Issues

3. The main issues with the proposed development are:
  - whether it would represent an unacceptable encroachment into the countryside;
  - its effect on the character and appearance of the surrounding area; and
  - its effect on biodiversity including protected species.

## Reasons

*Whether an unacceptable encroachment*

4. The flat grassed appeal site is located some distance away from the built form of The Bay Holiday Village, within the adjoining rough grassed meadow. It is located within the countryside and the development would be for a tourism related activity, consisting of a children's play area with a planted hedge boundary.
5. Policy ENV6 of the Scarborough Borough Local Plan 2017 (Local Plan) advises that outside the defined development limits, new development will be limited to those for which a countryside location is essential, including development relating to an appropriate recreational or tourism activity requiring a

- countryside location. It also indicates that the scale of the proposal should be compatible with its surroundings and not have an unacceptable impact on the character and appearance of the open countryside or wider landscape.
6. Policy TOU4 of the Local Plan permits new visitor accommodation and associated facilities in the countryside where, amongst other matters, (a) they would be of an appropriate scale in relation to their location; and (b) they are sited to be visually unobtrusive and can be successfully integrated into the surrounding landscape due to the natural topography and established screening.
  7. The importance of the economic benefits of tourism to the area, the need to continually improve the quality of the experience and provide new facilities that respond to visitors' requests is understood. However, whilst policies do not prevent tourism activity in the countryside, they are subject to being appropriate and successfully integrated into the surrounding landscape.
  8. The existing holiday homes have been permitted in the countryside. However, it is evident that the layout, specifically to the eastern end of the site, was completed in a broadly linear and confined manner. The proposal would vary from this approach by allowing development to encroach further into the countryside. The proposal's separation from the existing holiday homes would result in the proposed play area being a relatively isolated and visually incongruous feature within the largely open meadow.
  9. Even though the proposed play area equipment would be modest in scale and the boundary hedging would provide biodiversity and play equipment screening benefits, the proposal would still look out of place and would increase urban intrusion. There would be no natural topographical or landscape screening and the hedge boundary would not be comparable with the traditional lines of hedgerow and planting that exists. The nearby existing holiday homes would not lessen the impact of the proposal on the openness, and neither would the material or colour choice of the play equipment. The proposal would be visually intrusive and would not integrate well within the surrounding landscape.
  10. It is appreciated that the proposal responds to visitor requests for a play area closer to the southern and western areas of the holiday village, and that its location has been selected to reduce its prominence and minimise disturbance to the nearby existing holiday homes. However, this does not justify the harm to the countryside I have found.
  11. I acknowledge that hedging has been used on the nearby ponds to enclose these areas to protect the aquatic wildlife. However, in the case of the proposal they would represent a rectangular and obtrusive feature.
  12. In conclusion, the proposal would represent an unacceptable encroachment into the countryside and would be contrary to Policies ENV6 and TOU4 of the Local Plan.

#### *Character and appearance*

13. The surrounding area to the south and east from the existing holiday homes is characterised by its openness and typical undulating rolling topography. The landscape is a mix of rough grassland meadow with agricultural, rural and coastal landscapes beyond.

14. Policy ENV7 of the Local Plan seeks, through a number of criteria, that proposals protect, and where possible enhance the distinctiveness or special features that contribute to the landscape character of an area and take into account the sensitivity of the landscape to change. This includes, amongst other matters, change in terms of the a) sense of openness or enclosure and e) visual sensitivities and intervisibility of the landscape.
15. The appeal site is part of the meadow. It is a relatively flat area which consists of rough grassland with limited planting evident. The area allows open views across the surrounding landscape. Even with its modest scale, introduction of the proposed play equipment and boundary hedging would impact the openness, character and appearance of the area. It would partly obstruct views and would not, due to its prominence, be a sensitive addition to the landscape. While views from the surrounding roads and private agricultural land would be limited, the proposal would be highly visible to visitors to the holiday homes and meadow.
16. The appeal site lies within Local Character Area D5 of the Scarborough Borough Landscape Study (2013) which recognises that holiday parks/caravan parks are part of the landscape character. As such the appellant contends that, due to its modest size, the proposal can be assessed as being part of the prevailing landscape characteristics. However, the study also recognises, amongst other characteristics, that the area has a uniform and simple character, extensive views and an openness, elevation, and coastal proximity. Moreover, the overall landscape strategy for the area is defined as being to conserve the sense of openness and important visual relationships with the coast, as well as to check future growth which could impact on these such as holiday parks. Therefore, when considering the Scarborough Borough Landscape Study as a whole, the proposal would not meet these overall objectives.
17. In conclusion the proposal would adversely affect the character and appearance of the surrounding area and be contrary to Policy ENV7 of the Local Plan. It would also be contrary to paragraph 174 (c) of the National Planning Policy Framework 2021 (the Framework) which seeks to ensure proposals contribute to and enhance the natural and local environment by maintaining the character of the undeveloped coast.

### *Biodiversity*

18. The parties agree that the appeal site was part of the compensation for the Great Crested Newt habitat lost due to the earlier extension of the holiday village.
19. The Council's Ecologist has raised concerns about the ecological impacts of the proposal on this area. In response to this, the proposal would include planting of a mixed native species hedge to the boundary. In support of this an updated Preliminary Ecological Appraisal and a Great Crested Newt Risk Avoidance Management Strategy were provided. Following a review of the information and hedge proposal, the Council's Ecologist has confirmed that this would be sufficient to address the concerns raised. Having reviewed the provided information, I have no reason to disagree with its findings.
20. Concerns regarding implementation and changes to the landscaping within the meadow from previous planning permissions are noted by the Council. It also raises concerns regarding changes to previously agreed habitat compensation

measures and how this impinges on the meadow. While these are appreciated, the proposal must be assessed on its own planning merits and as it provides appropriate habitat compensation then further meadow habitat loss is prevented.

21. In conclusion, the proposal would not adversely affect biodiversity including protected species. It complies with Policy ENV5 of the Local Plan which seeks for development to positively respond to opportunities for the enhancement of species, habitats, or other assets. It would also comply with paragraph 174 (d) of the Framework which seeks to ensure proposals contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

### **Other Matters**

22. The appellant indicates that, other than discussions with the Council's Ecologist, due to the Council's workload it was unable to discuss the application during determination. However, this is a procedural matter between the appellant and the Council and does not affect the planning merits of the case.

### **Conclusion**

23. While the proposal would not adversely affect biodiversity including protected species, it would represent an unacceptable encroachment into the countryside and would harm the character and appearance of the area. These are the prevailing considerations.
24. The development would conflict with the development plan when read as whole. Material considerations including the Framework do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

*J Symmons*

INSPECTOR