



Appeal Decision

Site visit made on 23 January 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/H2733/W/22/3302462

Land south of Sands Road, Sands Road, Hunmanby, Filey YO14 9QW

- 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 Wayne Low, Eco Custom Homes, against the decision of Scarborough Borough Council.
 - The application Ref 21/02485/FL, dated 15 October 2021, was refused by notice dated 8 April 2022.
 - The development proposed is change of use of land for the siting of 65 static caravans, a full planning application for a facilities and administration building, a new vehicular access onto Sands Road and the improvement of Sands Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are, the effect of the proposed development on:
 - The character and appearance of the area, having regard to the scale, landscape and visual effect of the scheme;
 - The living conditions of nearby residents, with particular reference to privacy and disturbance; and
 - Flood risk and surface water drainage.

Reasons

Character and appearance

3. The appeal site comprises an arable field, enclosed by hedging, set back from the coastline. There is an existing field access off Sands Road. The topography of the site rises up from Sands Road to a ridge then drops away towards the south then rises up again to another ridge to the south of the site. The site is located within the countryside, for the purposes of planning policy.
4. The Scarborough Borough Landscape Study (2013) sets out the key characteristics of this landscape, including that it is a distinctive rolling and hummocky landscape, predominately of arable farmland interspersed with hedgerow field boundaries. Adjacent to the appeal site are residential properties, arable land, a farm and grass paddocks. Within the wider area there are holiday parks which also form a key characteristic of the wider landscape. These are visible from the appeal site, including The Bay, and the proposed

- development would be seen in the context of these existing holiday developments.
5. A Landscape and Visual Impact Assessment (LVIA) was submitted to support the planning application. The appellant's landscape architect has also provided an additional statement with the appeal. The appellant highlights that this reason for refusal is based on the planning officer's view rather than a landscape officer, and they have taken into account the comments made by the landscape officer relating to a previous planning application.
 6. The LVIA states that the overall landscape sensitivity of the site is judged as moderate. To my mind, the characteristics of the appeal site is typical of the character area in that it is an open, rolling arable field with hedgerow boundaries, and makes a positive contribution to the area.
 7. The proposed lodge style caravans would cover approximately a third of the appeal site. The proposed reception and facilities building would include a swimming pool, café/ restaurant and soft play area. The caravans would primarily be located within the natural dip of the site and would be earth tone coloured. Therefore, the scheme has largely been designed to integrate with the surrounding rolling landscape through working with the existing natural topography of the site to help reduce the proposal's visual impact. Nonetheless, some of the caravans would be sited on higher ground.
 8. The site currently contains limited established screening as it is currently an arable field with hedgerow confined to the boundaries. The proposed development would be heavily dependent on mitigation landscaping. The development includes trees and hedgerows as well as three large embankments. The proposed planting has been designed to screen the caravans that would sit on higher ground, and the development in general.
 9. The mitigation planting would help to screen the development in the long term. However, it would take many years to mature and to provide effective screening. The landscaping would also not be reflective of the open character of the appeal site. Within the wider area farmland is interspersed with field boundaries and occasional tree belts and copses. The extent and design of the planting would not have the naturalistic qualities of that seen in the local landscape.
 10. I observed on my site visit that the proposed development would be visible from a number of vantage points, and this is recognised in the LVIA. A local Councillor has also provided a photograph to demonstrate that the development would be prominent.
 11. The LVIA sets out that at year 1 the degree of visual effect of seven viewpoints would be moderate adverse (from public highways), two would be slight adverse (from public footpaths) and two neutral. From particularly viewpoints 6, 9 and 10, the proposal would form a visible and recognisable new element of the view and degrade its overall character and scenic quality. This includes views from the A165 coast road which is the main road corridor to Filey and Scarborough from the south, and key panoramic views towards the sea and coastline.
 12. When travelling along Sands Road the newly engineered vehicular entrance would be clearly visible. Sands Road is a well-used road, particularly in the

summer months, because it provides access to Hunmanby Gap, Hunmanby Sands beach, and car park.

13. At year 15, after mitigation planting has become more established, the degree of visual effect of seven viewpoints would be slight adverse and neutral for four viewpoints. Therefore, after many years the visual effect of the proposal would still be adverse from the majority of the viewpoints, and as acknowledged in the LVIA, hedge and tree planting would only partially screen the development from viewpoints 1, 2, 6, 9, 10 and 11.
14. The proposed development would be smaller in scale than the nearby holiday parks. I do not know the planning history of those sites and in any event, the existing holiday parks are contained and grouped together. The more immediate surrounding area of the appeal site is characterised by sporadic development. The proposal would introduce a protrusion of development in an area of open landscape where there is currently extremely limited built development surrounding the site.
15. Having regard to the appeal site's countryside and coastal location, the scale of the development (including number of caravans, reception and facilities building, internal roads, vehicular access and planting) and size of the appeal site, the proposed development would not be of an appropriate scale and would be visually obtrusive. The proposal would not successfully integrate into the surrounding landscape or positively respond to the local context. It would be seen as an intrusion of development into the countryside. Consequently, the proposal would have an unacceptable impact on the character and appearance of the open countryside and wider landscape.
16. The proposed development also includes highway improvements to Sands Road by widening the road and the addition of a footway. This would provide benefits to pedestrians and vehicles. The benefits of the scheme are addressed in my decision below. Sands Road is currently a simple rural lane which is predominantly a single-track road with passing places and no footpath. The proposed alterations to Sands Road would significantly alter and undermine its rural character and appearance as it would create an engineered and more urban feel to Sands Road.
17. For these reasons, the proposed development would cause harm to the character and appearance of the surrounding area, having regard to the scale, landscape and visual effect of the scheme. Consequently, it would conflict with Policies TOU 1, TOU 4, ENV 6, ENV 7 and DEC 1 of the Scarborough Borough Local Plan (2017) (LP). These seek amongst, other matters, to ensure proposals for the development of new visitor accommodation and associated facilities in the countryside will be permitted where they would be of an appropriate scale in relation to their location, would be sited to be visually unobtrusive and can be successfully integrated into the surrounding landscape due to the natural topography and established screening.
18. It would also conflict with paragraphs 84 and 174 of the National Planning Policy Framework (the Framework). These state decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside and contribute to and enhance the natural and local environment.

Living conditions

19. A number of local residents have expressed concern in relation to this main issue. The site is bounded by a number of dwellings which are accessed from Sands Road and Moor Road. These dwellings currently enjoy a relatively tranquil setting and generally have low rear boundary treatments. Furthermore, I observed on my site visit that some of the dwellings have large amounts of glazing, along with balconies, which are visible from the appeal site.
20. The Council's reason for refusal relates to primarily the intensification of activity and privacy. They accept that planning conditions can be used to successfully mitigate against the specific impacts that could arise from odour and noise in relation to the buildings proposed on site.
21. The appellant's transport statement sets out the anticipated vehicular movements associated with the development. Compared to the current use of the site, there would be an increase in movements (including vehicular and people) and intensification of the use of the site associated with the proposed development. Given the distance to the beach, despite the proposed footway, it is likely that some visitors would drive past the dwellings along Sands Road. However, in the main it is likely that most visitors would walk.
22. The appellant states that the nearest dwellings are over 180m from the nearest proposed lodge style caravan and 67m from the access road. It has been suggested from local residents that the distance would be less. Regardless of the precise measurement, the distance between the caravans and the dwellings would be significant.
23. The proposal also includes open space, parks and a circular walk. The landscaping plan shows that the areas adjacent to the residential properties would be maintained as a rough grassland meadow, rather than an area to facilitate games or leisure activities. Some of the proposed paths and 'trim trails' would be at a higher level than the nearby residential properties. A planning condition could be attached relating to a landscape management plan to provide buffer areas close to the dwellings. Albeit I recognise that it would take a number of years for the landscaping to mature.
24. The privacy currently enjoyed by residents would undoubtedly change. Nevertheless, given the distance between the proposed development (including activity stemming from the use of the site) and existing dwellings, the proposed use of the areas close to existing dwellings as well as a landscaping planning condition, the proposal would not have an unacceptable effect on privacy or result in unacceptable overlooking (including the perception of overlooking).
25. Furthermore, having regard to the anticipated vehicle movements, the proposed use of the areas close to existing dwellings and distance between the existing dwellings and roads, the increase in movement (including people and vehicular) would not be so significant that it would have an unacceptable effect on the living conditions of nearby residents. The intensification of the use of the site would not adversely effect living conditions to a degree that would warrant planning permission being refused.

26. For these reasons, the proposed development would not have an unacceptable effect on the living conditions of nearby residents, with particular reference to privacy and disturbance. Consequently, it would comply with Policy DEC 4 of the LP. This seeks to ensure proposals for development should not give rise to unacceptable impacts by means of overlooking, loss of privacy and disturbance.

Flood risk

27. The appeal site is located within flood zone 1. Local residents have highlighted that the appeal site is known to flood and water often runs off the field onto Sands Road.
28. The Lead Local Flood Authority (LLFA) confirmed that they were satisfied that the submitted documents indicated a reasonable approach to surface water management. They requested that further investigation into the land drain crossing the site, and demonstration that the site layout can be delivered without conflicting with any watercourses. The Council has suggested a planning condition which requires this additional information, and also other conditions relating to drainage.
29. The appellant asserts that during the course of the application, they provided the information requested by the LLFA. The appellant drainage consultant's letter sets out that based on the site inspection, it is noted that there is potential for a wider connection to the existing land drain crossing the proposed development. The site visit concluded that not all flows lead to the existing land drain due to the changes in topography around the area. The wider connection appears to be dependent on a potential piped culvert beneath Hunmanby Road, which would also result in flows being restricted to the capacity of the pipe. However, as the site proposals ensure that the existing flow route crossing the site will be maintained, the functionality will continue in the same way as it currently does, regardless if the site is developed or not.
30. The LLFA has not provided any comments on the information. Based on the evidence submitted, adequate investigation works has been carried out into the land drain crossing and the overland flow route. The proposal would not conflict with any watercourses and, subject to appropriate planning conditions, flood risk will not be increased on or off the site.
31. For these reasons, based on the information before me, the proposed development would be acceptable in terms of flood risk and surface water drainage. Consequently, it would comply with Policy ENV 3 of the LP. This seeks to ensure that proposals will be expected to mitigate against the implications of environmental risk and the effects of climate change through using mitigation measures to ensure flood risk is not increased on or off site.

Other Matters

32. I have considered the other matters raised. The appellant has drawn my attention to the proposal's environmental benefits (including enabling expansion of the UK holiday market and providing alternatives to foreign holidays (which have a greater carbon footprint), biodiversity net gain and ecological benefits), economic benefits (through increased tourism, 28 new full-time jobs, jobs during construction phase and as supported by the Council's economic strategy, paragraphs 81, 84, 85 of the Framework). In addition, social benefits (provide holiday homes (having regard to the Council's paper

'second homes/ holiday lets issues and scope for primary residence requirement') and would provide accessible services and open spaces) as well as highway improvements to Sands Road (providing benefits to pedestrians and vehicles), improved access to the beach and business rates.

33. Some of these benefits are supported by limited evidence, for example that the proposed development would provide an alternative to foreign holidays. In any event, I do not underestimate the benefits of the scheme and overall, I give the benefits significant weight.
34. The appellant also highlights that a number of similar sized holiday homes developments have been granted planning permission. Extremely limited information regarding those schemes has been submitted for me to make a robust comparison. Nonetheless, as those developments are located elsewhere, the specific characteristics of the appeal site cannot be directly compared. In any case, each case is treated on its own merits, and I have made a planning judgement based on the site specific context on the ground.

Planning balance and conclusion

35. I conclude that the proposed development would not have an unacceptable effect on the living conditions of nearby residents and would be acceptable in terms of flood risk and surface water drainage. However, the proposed development would cause harm to the character and appearance of the surrounding area, having regard to the scale, landscape and visual effect of the scheme, and I afford this harm substantial weight. Tourism is of great importance to the area, but it is important that new visitor accommodation protects the areas distinctive character that makes it an attractive place to visit. I give the benefits of the scheme significant weight which results in a finely balanced decision. Nevertheless, on balance, I am not persuaded that the benefits of the proposed development outweigh the harm.
36. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR