



Appeal Decision

Site visit made on 7 February 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/E2001/W/22/3306742

Northstead Lodge, Bempton Lane, Flamborough, East Riding of Yorkshire YO15 1PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr James Hesp against East Riding of Yorkshire Council.
 - The application Ref 22/01192/PLF, is dated 1 April 2022.
 - The development proposed is change of use of land for the siting of 13 holiday lodges and associated infrastructure following demolition of existing stable block.
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Decision

1. The appeal is dismissed and planning permission for the change of use of land for the siting of 13 holiday lodges and associated infrastructure following demolition of existing stable block, is refused.

Procedural Matters

2. The appeal is against the Council's failure to determine the planning application within the relevant statutory timeframe. However, I have had regard to the Council's statement which provides clarity in terms of the reasons the Council would have refused planning permission for the proposed development, had it been able to do so.
3. The Flamborough Head Special Area of Conservation (SAC) and the Flamborough and Filey Coast Special Protection Area (SPA) are protected as European Sites of Nature Conservation Importance. They are therefore subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations), which outline a duty to consider whether a proposed development may have a significant effect on the conservation objectives of such protected sites. In addition, Flamborough Head is also designated as a Site of Special Scientific Interest (SSSI) at a national level. I will return to this matter later in my decision.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, with reference to the Yorkshire Wolds Important Landscape Area (YWILA) and the Flamborough Heritage Coast (HC).

Reasons

5. This area is designated as a HC. Whilst this may not be a statutory landscape designation, paragraph 178 of the National Planning Policy Framework (the Framework) states that within such areas, planning decisions should be consistent with the special character of the area and the importance of its conservation. I must therefore have regard to this designation. The East Riding

Local Plan Strategy Document 2016 (ERLPSD) further defines the area as part of the YWILA. The key characteristic of this landscape area is the rolling elevated land of mainly pastoral fields, that provide expansive views of the countryside.

6. The appeal site comprises an existing paddock outside the development limits of Flamborough and within the countryside. It is accessed via a field gate off Bempton Lane, the main road into the village from the north. An existing stable block is tucked into the south-western corner, such that the majority of the appeal site appears open and undeveloped. The land rises gently from Bempton Lane towards the western boundary of the appeal site. The paddock therefore contributes to the pleasant, green and pastoral setting of the village and the wider character of the YWILA and HC.
7. The appellant considers that the Council's Tourism Accommodation Study identifies visitor capacity could be increased. Policies EC1 and A2 of the ERLPSD offer support for small-scale tourism development including self-catering accommodation within the countryside, recognising the contribution it can make to the local economy. These policies align with the approach of the Framework set out at paragraph 84. However, such support is not unqualified but rather, subject to development being of an appropriate scale and sympathetic to the landscape character.
8. The appellant contends that a landscape and visual impact assessment was not required upon the validation of the planning application. Validation prerequisites are typically minimum requirements that do not negate the need for further explanatory information to be provided to clearly explain, justify or mitigate the impacts of a particular proposal during the planning application process. I note that Policy ENV2 of the ERLPSD is clear that consideration is to be given to the impact of the development on the YWILA and HC designations, including its visual impact.
9. Photographs of the appeal site have been supplied suggesting that the visual impact of the proposal would be limited. These photographs appear to have been taken in the summer months when hedgerows and trees were in full leaf. During my visit in winter, I saw that the existing hedgerow to the eastern boundary of the appeal site would enable views through to the proposed development behind, due to its deciduous and occasionally intermittent nature. The lodges would therefore be visible through and beyond the hedgerow, rather than against its backdrop for a good proportion of the year.
10. No planting currently exists along the northern boundary of the appeal site. The hedgerow that exists to the north is located along the southern boundary of the adjacent field which is outside of the appeal site and therefore, its retention cannot be adequately controlled. Regardless, this hedgerow is discontinuous and with limited planting close to the boundary with Bempton Road. The proposed lodges would therefore be visible from the proposed vehicular access point and more widely across the neighbouring agricultural land, particularly from vehicles travelling in a southerly direction along Bempton Lane. These views would be possible for a good proportion of the year when the trees and hedgerows are not in leaf. The set back behind the highway verge would do little to mitigate the proximity of the proposed development to the road and therefore its visibility.
11. Public views of the appeal site would be relatively localised. Nonetheless, the erection of 13 lodges on a paddock of relatively limited size, in regimented and

- uniform positions, along with the associated hardstandings for the access road and car parking areas, would have an adverse urbanising effect on the existing paddock and this part of the countryside.
12. The appellant suggests that the proposed lodges would have less of a visual impact than caravans. Whether or not this would be the case, the proposed lodges would be prominent and jarring to the setting of the village, bearing no visual relationship to the dwellings that border the appeal site to the south, or the openness and greenness of the grazing land to the north and west. In this regard the proposal would not respect the intrinsic character or natural beauty of the area.
 13. Light spillage from internal lighting during hours of darkness and inclement weather would accentuate the prominence of the development within the wider landscape. In addition, no section drawings have been supplied to demonstrate how the lodges would be accommodated to take account of the sloping land. If any of the units, particularly those of 1-5 were to be raised above ground to account for the gentle slope, it would be likely to emphasise the visual prominence of the development further.
 14. Although new planting is proposed, it would take a considerable amount of time to establish to make any meaningful contribution to the filtering or screening of the development. Given the limited planting to the eastern boundary and the absence of planting to the northern and western boundaries of the appeal site, the harm exerted would be apparent for a significant number of years. Even then, given that the proposed lodges would be in place all year around and the proposed planting would consist of deciduous native species, they are likely to be conspicuous in the winter months. The proposed planting would not satisfactorily mitigate the visual harm identified.
 15. Securing a landscape mitigation plan by condition would not be reasonable given my concerns about the impact of the proposed development upon the character of the area. Significant landscaping would be required to filter and soften views of the proposed development which regardless is always likely to be visible, given the permanence and amount of development proposed. Such dense landscaping itself would be uncharacteristic of the context of the appeal site, where tree and hedgerow planting are limited to field boundaries. Enclosing the appeal site with landscaping would further erode the contribution it makes to the openness of the countryside, the YWILA and the HC.
 16. Reference is made to 2 planning approvals considered to be consistent with this proposal. The officer report for the camping pods proposal at Brigg Bottom (reference 18/00278/PLF) indicates that the site benefitted from existing landscape features including an area of mature woodland to the north and east, an existing hedgerow and tree network and undulations in the local topography. Significant new planting appears to have been proposed to consolidate the existing woodland planting nearby. The supplied site plan also indicates that the site is set away from Lighthouse Road.
 17. The proposal for the siting of tourers, 25 static caravans and camping pitches determined under application reference 16/01914/STPLF, related to the extension of an existing 80-pitch caravan site. The existing caravan development therefore formed part of the visual context of that particular site. The development also included touring caravans and tent pitches which are more transient in nature. Extensive landscaping measures were proposed for the site including shelterbelt planting and new naturalised woodland areas that

were further recognised as being of conservation value. Reference is also made within the officer report to economic benefits of the proposal arising from the expansion of an existing business. For these reasons, I do not find the circumstances of either of these previous approvals to be comparable to the scheme or context of the appeal site which is before me.

18. Aerial images of the Lighthouse and Thornwick Bay Holiday Parks indicate a high density of caravans and lodges in a ridged pattern. However, these developments would hardly ever be perceived by the public in such views on a day-to-day basis. Even if they were, the presence of other large caravan and lodge development nearby, does not justify the harm identified to the rolling countryside landscape.
19. The scale of the proposed development whilst not meeting the definition of major development set out in Annex 2 of the Framework and being smaller than other development permitted within the locality, does not dictate that the proposal is automatically acceptable. A conspicuous form of development would be introduced that would not sympathetically integrate into the landscape or conserve its intrinsic value, a matter which paragraph 178 advises I should attach importance to. Rather, it would diminish the openness of the appeal site and the contribution it makes to the wider bucolic and pastoral landscape. Intrusion into the landscape would not therefore protect and enhance the features that contribute to the setting of the village, the YWILA and the HC.
20. For the above reasons, I conclude that the proposed development would result in a significantly harmful effect on the character and appearance of the area, including the YWILA and HC. The proposal would conflict with Policies S4, EC2, ENV1 and ENV2 of the ERLPSD. Collectively these policies seek to ensure that tourism developments are of a high quality that respects the intrinsic character of its surroundings and further protects and enhances the existing landscape character within the YWILA and HC. Conflict is also found with paragraph 178 of the Framework as detailed above.

Other Matters

21. One full-time equivalent job would be created by the proposal. In addition, the proposed lodges would increase the provision of overnight accommodation which would be within walking distance of local shops, services and public transport. However, given the nature of the accommodation and the public transport network, the majority of future occupiers would be likely to arrive by and utilise a private car during their stay. Whilst I accept that the surrounding area may be popular with visitors, no evidence has been presented to me to indicate that there is a specific functional need for caravans to be located on this particular site.
22. The economic benefits and accessibility credentials therefore weigh only modestly in favour of the proposal. There is no evidence before me that the economic activity generated by the appeal site would deliver enhancements to the wider landscape.
23. There are a number of European Protected Habitats in the area surrounding the site including the Flamborough Head SAC, the Flamborough and Filey Coast SPA and the Flamborough Head SSSI. The proposal for holiday accommodation is not directly connected with or necessary for the management of the protected sites. The fact that the appeal site lies outside of the designations, does not necessarily mean that there would be no impact. Given that the proposed development would enable visitors to stay overnight, it has the

- potential to increase the recreational use of the protected sites, that could lead to an adverse effect from harmful disturbance of the habitats.
24. A Habitats Regulations Assessment (HRA) is the process of considering the effects from a proposal on European sites and must be undertaken by a competent authority i.e. the body responsible for granting consent. A HRA has not been carried out. The Council could have undertaken a HRA if it considered that the proposal would be likely to have a significant adverse effect on the protected sites. However, regulation 63(2) of the Habitats Regulations places the onus on the appellant to provide enough information for the competent authority to undertake this exercise. Such information including an assessment of the effects of the proposal alone, and in combination with other plans and projects in the area, has not been provided. Following the precautionary principle, if it was unclear whether an effect would be significant due to the lack of information the Council in any event, could not have concluded a HRA positively.
25. The Council disputes the appellant's suggestion that other developments have been permitted within the locality without a HRA. Whether or not this is the case, it does not justify noncompliance with the Habitats Regulations in relation to the proposal before me. The Habitats Regulations are clear that permission may only be granted after having ascertained that a scheme will not affect the integrity of the protected sites. That is not possible in this instance given the lack of information available. Nevertheless, I am not required to consider this matter further, in light of my findings on the main issue.
26. I note the Nature Conservation Officer's consultation response indicates that a preliminary bat roost assessment is required to demonstrate that the proposal would not harm a European Protected Species. In the event I was minded to allow the appeal, I would have required further information on this matter.

Planning Balance and Conclusion

27. The proposed development would help to support the rural tourist economy through the creation of one full-time equivalent job and increased overnight stays in an accessible location, enabling greater visitor spends locally. However, these benefits would not outweigh the adverse effects I have found would be caused in relation to the character and appearance of the area, including the YWILA and the HC. For the above reasons, having considered the development plan as a whole, the approach in the Framework and all other considerations, the appeal is dismissed and planning permission is refused.

M Clowes

INSPECTOR