



Appeal Decision

Site visit made on 4 April 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2023

Appeal Ref: APP/X1545/W/22/3298461

Steeple Bay Holiday Park, Canney Road, Steeple, CM0 7RS

- 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 under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Park Holidays UK Ltd against Maldon District Council.
 - The application Ref: VAR/MAL/21/00862 is dated 20 August 2021.
 - The application sought planning permission for Change of use of land to allow the occupation of holiday caravans between the 1st March and the 30th November (inclusive) in each year (resubmission of 17/01364/FUL) without complying with a condition attached to planning permission Ref: 18/00465, dated 12 October 2018.
 - The condition in dispute is No. 1 which states that: no caravan, chalet or mobile home shall be occupied for any purposes outside of the period 1 March and 30 November (inclusive) in any one year.
 - The reason given for the condition is: in order to ensure that the approved use is carried out in accordance with the submitted details, that the use of the site is for holiday purposes only and that there is no adverse effect to the adjoining designated nature conservation site in line with policies S1, S8, E5, D1, D2 and N2 of the approved Local Development Plan and the guidance contained within the National Planning Policy Framework.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue relevant to this appeal is the effect of the proposed amendment to a planning condition upon nature conservation sites and protected species of wildlife.

Reasons

3. The appeal site consists of an existing holiday park. This is located in close proximity to the estuary. The evidence before me indicates this is of great level of significance which is, in part, derived from the presence of this area being a Ramsar site; a Site of Special Scientific Interest (SSSI); and the Blackwater Estuary Special Protection Area (a SPA). These are significant as the area is a roosting and foraging area for several types of birds. Although the appeal site is in use as a holiday park, this is limited to parts of the year only.
4. The proposed variation seeks to amend this to enable people to be potentially resident at the appeal site for a notably longer period of time. This would mean that, apart from a limited period between mid-February and the end of March,

the holiday park could be operational on a continuous basis. Although I note that the original planning permission includes a condition that requires that residents of the holiday park maintain a permanent address elsewhere, the proposed variation is likely to result in a significant increase in the overall level of activity at the site.

5. Therefore, the proposed amendment is likely to result in a greater level of activity at the site and for a prolonged period of time. This increased level of activity is likely to result in a greater use of the public footpath, which is accessible from the appeal site. In addition, users of the holiday park have access to a slipway into the estuary.
6. In reaching the view that the proposed amendment would result in an increase in the overall level of activity at the site, I have had regard to the evidence before me that is indicative that a large proportion of the caravans on site are privately owned. Therefore, residents are free to come and go from the site in line with the existing planning permission. This means that potentially there could be a large number of people occupying the site.
7. In addition, as a holiday park, it is likely that its more intensive use, in terms of timescales, in proximity to the estuary would result in an increased level of activity associated with the movement of people around the site, and the undertaking of leisure activity. This would result in disturbance to any species that may be roosting near to the appeal site.
8. In addition, as a holiday park, there is a greater likelihood that there would be increased use of artificial lighting. This is because the proposed amendment would allow for a greater amount of activity to take place during periods where natural daylight is likely to be limited. Therefore, lighting is likely to arise from the usage of caravans and other buildings on the appeal site, in addition to free standing illumination on the site. This is also likely to cause disruption.
9. Such activities have the potential to disrupt the roosting of birds nearby. This is due to increased disturbance which may prevent birds from undertaking their normal activities and expected behaviours.
10. In reaching this view, I acknowledge that there may be other roost sites in the wider area. However, the potential disruption would be significant and therefore the well-being of protected species within the estuary would be particularly significant and harmful. In addition, the movement of birds to alternative sites would also cause disruption to the well-being of protected species, which should be avoided.
11. Although it is noted that the nearby salt marshes and mud flats are discouraged as locations for recreation activity the wider area could be readily used for such purposes. Therefore, the proposed amendment to the period of time that the holiday park could be operational would be particularly harmful.
12. In addition, although there are other locations nearby that may be of a greater sensitivity to the appeal site, the overall level of change that the proposed development would bring combined with its potential effects means that the proposed amendment would still be significant in scope.
13. My attention has been drawn to possible strategies to mitigate the effect of the proposed amendments. However, given that the proposed amendments pertain to a holiday park, it is not possible to place limitations upon the use of the site

as this would be unreasonable and would conflict with the overall function of the development.

14. In reaching this view, I have had regard to the fact that the evidence before me is indicative that a large proportion of recreation is undertaken on the water by users other than residents of the holiday park. Whilst this may be the case, the proposed amendment would result in a notable increase in activity within the site and its immediate surroundings, which would have an adverse effect on roosting wildlife. Although I note that some surveys have been carried out regarding the level of activity, however, these are limited in scope and cannot be attributed a significant amount of weight.
15. I understand that it was suggested that measures could be put in place to limit the launching of boats from a slipway at the appeal site. However, the evidence before me is indicative that this would only resolve some of the harm that would emanate given that some adverse effects would arrive from people walking and undertaking activities within the holiday park.
16. In addition, I understand that there are other locations to launch boats within the wider area. Therefore, there is a possibility that if the holiday park's slipway were to be closed, occupiers of the appeal site would be able to utilise alternative sites elsewhere. In consequence, it has not been demonstrated that this suggestion would result in a reduction in activity near to the appeal site. This means that this suggestion would not offer sufficient mitigation to overcome the previously described adverse effects.
17. It has been suggested that additional signage could be installed at the site. This would serve to inform residents of the holiday park of the sensitivity of the location. However, this would not result in reductions in the overall level of activity. Therefore, this suggestion would not provide appropriate mitigation.
18. The Council has a strategy for securing mitigation arising from some types of development. However, the evidence before me indicates that this strategy does not include development associated with tourism. Therefore, this matter does not allow me to forego my preceding findings.
19. The existing footpath was laid out at the appeal site, with knowledge of the level of activity within the holiday park. However, the evidence before me does not indicate that the assessment of where to locate the footpath took into account any future growth or change in the use of the holiday park. Therefore, this matter does not overcome my previous concerns.
20. There is no persuasive evidence before me that indicates that an intensification in the use of the path would not give rise to the aforementioned adverse effects. Therefore, I must conclude that these suggestions would not allow me to disregard my previous findings.
21. The adopted planning policies to which I have been directed are clear that developments that have an adverse effect upon the natural environment should not normally be permitted. From the submissions, I am not persuaded that there are any exceptional circumstances to deviate from this position.
22. I therefore conclude that the proposed amendment would have an adverse effect upon nature conservation sites and protected species of wildlife. The proposed amendment, in this regard, would conflict with the requirements of Policies D2, N1 and S1 of the Maldon District Local Development Plan (2017).

Amongst other matters, these seek to ensure that developments minimise their impact on the environment; that where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the development would not normally be permitted; and conserve and enhance the natural environment.

Other Matters

23. In submitting this appeal, I note that the appellant was attempting to overcome the refusal of previous planning applications. Whilst this is a matter of note, it does not outweigh my findings in respect of the main issue.

Conclusion

24. The proposed development would have an adverse effect upon nature conservation sites, such as the SSSI and SPA, and protected species of wildlife. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed

Benjamin Clarke

INSPECTOR