



Appeal Decision

Site visit made on 23 May 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2023

Appeal Ref: APP/F1040/W/23/3316427

Knights Lodges, Knights Lane, Bretby, Burton-On-Trent DE15 0RT

- 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 Dean Willshee against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2022/0838, dated 9 June 2022, was refused by notice dated 9 September 2022.
 - The development comprises the erection of 8 holiday lodges.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 8 holiday lodges at Knights Lodges, Knights Lane, Burton-On-Trent DE15 0RT in accordance with the terms of the application, Ref DMPA/2022/0838, dated 9 June 2022, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. I have taken the description of the development from the application form however I have deleted reference to 'retrospective application' as this is superfluous.
3. Notwithstanding the above I noted on my site visit that the 8 holiday lodges were substantially complete with some of the buildings being occupied. Landscaping works, including tree and shrub planting had also been carried out on the appeal site.
4. I note that the Council's Committee Report makes reference to 'negotiations on a Unilateral Agreement or Section 106 Agreement in respect of restrictions on the use of the lodges'. This is a matter I will come back to in the event that I am minded to allow the appeal.

Main Issue

5. The main issue in this case is the effect of the proposal on the character and appearance of the area.

Reasons

6. The holiday park is located within a hedged field on Knights Lane. The surrounding landscape is characterised by undulating fields with mature trees within the hedgerows.

7. The main parties agree that the principle of development on the appeal site has been established, with permission having been granted for the erection of 8 holiday cabins (Phase 2)¹ in January 2020. The permitted 'holiday cabins' were intended to be similar to those on phase 1, being prefabricated and with little physical contact with the ground. The appeal scheme provides for a more permanent form of construction and an increase in the size of the units.
8. I acknowledge that the lodges would be of a more permanent construction and would be larger than those permitted under reference DMPA/2019/1305. That said, they are located within large plots, with significant spaces between them, and look similar in appearance to those buildings that have been erected on phase 1 of the development. Furthermore, the wood clad walls and anthracite coloured standing seam roofing of the lodges results in a high quality design that sits well with the neighbouring cabins and leisure building. As a result, the buildings do not appear as discordant or prominent features within the landscape.
9. I have also taken into account the comprehensive landscaping scheme that was submitted with the proposal. I saw on my site visit that some landscaping has already been carried out on the appeal site, which further mitigates the impact of the development on the surrounding countryside. However, I cannot say, with any certainty, that this has been fully completed in accordance with the submitted scheme. Therefore, if I was to allow the appeal it would be appropriate to attach a condition requiring the full completion of the submitted landscaping scheme and its maintenance thereafter.
10. Accordingly, I conclude that the development is a scale and design appropriate for its location and does not have a harmful effect on the character and appearance of the area. The proposal would therefore comply with policies E7, BNE4 and INF10 of the South Derbyshire Local Plan Part 1 and policy BNE5 of the South Derbyshire Local Plan Part 2. These policies, amongst other matters, support tourism development in appropriate locations, and require the protection of the character and appearance of a locality through high quality design.

Other Matters

11. I have taken into account the requirement to provide a sustainable design as required by policy INF10 of the South Derbyshire Local Plan Part 1. In this regard I agree with the Council conclusion, as set out in their Committee report, that when compared with the approved scheme, it would be difficult to conclude that there is a materially greater detrimental impact in terms of sustainability, and therefore the development would not conflict with policy.
12. I have also had regard to the indication, as set out in the Council's Committee report that they would be seeking a Unilateral Agreement or Section 106 Agreement to restrict the use of the lodges. I have no evidence before me, from either main party, indicating that any form of legal agreement has been negotiated. That said, I am satisfied that condition 2, as set out below, provides a suitable mechanism to prevent the creation of unrestricted dwellings.

¹ DMPA/2019/1305

Conditions

13. I have imposed a condition (1) to specify the relevant drawing numbers as this provides certainty.
14. A condition (2) is necessary to limit the use of the holiday lodges to holiday accommodation only, and to prevent the creation of unrestricted dwellings in a location which would be contrary to the development plan and the objectives of sustainable development.
15. A condition (3) is necessary to ensure that the external materials used for the development are appropriate for the rural area within which it is set.
16. A condition (4) is necessary to ensure the landscaping is completed in accordance with the approved details, and maintained thereafter, thereby protecting and enhancing the landscape character of the area and providing a biodiversity net gain.
17. A condition (5) is necessary to ensure that the development does not increase flood risk and that the principles of sustainable drainage are incorporated into the development.
18. It is necessary to impose a condition (6) in the interests of the biodiversity of the site and surrounding area.
19. A condition (7) is necessary to limit light pollution in a countryside location.
20. I do not consider that a condition relating to the provision of 2 parking spaces, and manoeuvring space, for each lodge, prior to occupation, is required as this had already been provided at the time of my site visit. However, a condition (8) requiring their retention and maintenance would be reasonable and necessary to ensure that sufficient parking is available for the development in the future.
21. I do not consider a condition is necessary to secure parking and manoeuvring for delivery vehicles within the appeal site boundary is justified. The appeal development forms part of a wider development, and it is likely that delivery activity will be focussed adjacent the reception/leisure building which lies outside of the appeal site boundary.
22. A condition (9) is necessary to ensure that the submitted noise mitigation scheme is implemented thereby avoiding undue disturbance to occupiers of neighbouring lodges/cabins. However, I accept the appellant's argument that with the inclusion of a quiet site policy between 10pm and 8am and a restriction to prevent the playing of external music, there will be no requirement to provide further mitigation in respect of the use of the hot tubs.
23. It is necessary to impose a condition (10) to ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.
24. A condition (11) is necessary to ensure that the drainage system is constructed to nationally recognised standards. However, as the lodges are already being occupied, I have allowed a three month period for the verification report to be submitted.

Conclusion

25. There are no relevant considerations, of sufficient weight, to indicate the application should be determined other than in accordance with the development plan when considered as a whole. For the reasons given above, I therefore conclude that the appeal should be allowed subject to the conditions set out below.

John Gunn

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved drawings and details:

Site Location Plan, drawing no. 1560W 15 rev. C;
Proposed Site Plan Scale 1:200, drawing no. 1560W 13 rev. C;
Proposed Site Plan Scale 1:500, drawing no. 1560W 14 rev. C;
Proposed 2 Bed Lodge – Gallahad, drawing no. 1560W 11;
Proposed 3 Bed Lodge – Lancelot, drawing no. 1560W 12;
Material Schedule, drawing no. 1560W 23;
Tree Planting Proposals, drawing no. GL0797 01 rev. J prepared by Golby and Luck Associates;
CONFIDENTIAL Business Plan June 2022, prepared by Marrons Planning;
Ecological Impact Assessment April 2022, prepared by Ecolocation;
Ecological Condition Discharge Letter January 2021, prepared by Ecolocation;
Landscape and Ecological Management Plan, prepared by Golby and Luck Associates; and
Landscape Visual Impact Assessment (June 2022 update), prepared by Marrons Planning.
2. Notwithstanding the provisions of Part C Class 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, (or any Order(s) revoking or re-enacting either or both Order(s)); the 8 lodges hereby approved shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the local planning authority, and:
 - i. the buildings shall not be occupied as a person's sole, or main place of residence;
 - ii. the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and shall not be re-occupied by the same person(s) within 3 months following the end of that period; and
 - iii. the site operator shall maintain an up-to-date register of the names of all occupiers of the holiday cabins, and of their main home addresses, and shall make that information available at all reasonable times to the local planning authority. The contact details for the site operator shall be supplied in writing to the local planning authority within 1 month of the date of this decision, any subsequent change in operator (including their contact details) shall be notified to the local planning authority no later than 5 days following that change.
3. The facing and roofing materials and fenestration details, to be used in the construction of the external walls and roof of the lodges shall be carried out in accordance with the approved details and materials schedule.
4. The approved Tree Planting Proposals plan GL0797 01 J shall be implemented in full in the first planting season following the first occupation of the development. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in accordance with

the approved scheme and timetable; and any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period.

5. The development shall take place in accordance with the drainage proposals outlined within the Flood Risk Assessment, prepared by PRP and the following drainage documents:
 - Drainage Construction Details, drawing no. 108 rev. P1
 - Drainage Layout, drawing no. 105 rev. P10 - Package Plant Maintenance Schedule
 - Infiltration Rates - Maintenance Schedule - Management Schedule for Surface water during Construction
 - Trial Pit Logs
 - Greenfield Runoff Rates
 - 1 in 1 year, 1 in 30 year, 1 in 100 year + 40% climate change and 1 in 100 year storm calculations.
6. The development hereby approved shall be carried out in accordance with the biodiversity enhancement recommendations in Section 5 of the Ecological Impact Assessment 2020-11 (08) produced by Ecolocation dated 1st April 2022. The measures shall be implemented and retained as such thereafter.
7. No external lighting shall be installed until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to the local planning authority for approval in writing. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the latest guidance published by the Institute of Lighting Engineers.
8. The parking and manoeuvring areas shown on drawing no. 1560W 13 rev. C and 1560W 14 rev. C, shall be laid out and maintained throughout the life of the development free of any impediment.
9. The submitted Noise Mitigation Scheme shall be implemented as approved. This scheme as a minimum should include measures to ensure: i) a quiet site policy to be enforced between 10pm and 8am; and ii) no external music to be permitted or facilitated. Any physical measures included as part of the noise mitigation scheme shall be retained/maintained as such, with all other measures in the noise mitigation scheme carried out in accordance with the approved scheme throughout the lifetime of the development.
10. The infiltration pond should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753, and in accordance with details to be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and retained as such thereafter.
11. Within 3 months of this decision, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the local

planning authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

END OF SCHEDULE