



Appeal Decision

Hearing held on 2 May 2023

Site visit made on 2 May 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/A2335/W/22/3312730

South Lakeland Leisure Village, Borwick Lane, Dock Acres, Carnforth LA6 1BH

- 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 Pure Leisure Group Ltd against the decision of Lancaster City Council.
- The application Ref 19/00020/FUL, dated 7 January 2019, was refused by notice dated 9 June 2022.
- The development proposed is described as a "Part retrospective application for the change of use of former quarry for the siting of 138 holiday lodges with associated access roads, sales display area, play area car parks and landscaping".

Decision

1. The appeal is allowed and planning permission is granted for the development described as "part retrospective application for the change of use of former quarry for the siting of 138 holiday lodges with associated access roads, sales display area, play area car parks and landscaping" at South Lakeland Leisure Village, Carnforth LA6 1BH in accordance with the terms of the application, Ref 19/00020/FUL, dated 7 January 2019, and the plans submitted with it, subject to the attached schedule of conditions.

Application for costs

2. The appellant has made an application for costs which is the subject of a separate decision.

Preliminary Matters

3. The parties have provided a signed Statement of Common Ground (SoCG), amongst other matters, the SoCG agrees that the additional details provided by the appellant resolves the dispute between the parties regarding foul drainage. Furthermore, regarding surface water drainage, the Lead Local Flood Authority (LLFA), has confirmed that in light of the 'updated drainage strategy report addendum', associated drawings and subject to appropriate conditions the authority has no objections to the appeal scheme. Thus, the second and third reasons for refusal have been withdrawn.
4. Planning permission¹ was previously granted in respect of the site for a change of use to allow the siting of 138 holiday lodges, landscaping, access and parking. However, as described by the Council "A number of the pre-development conditions on the 2015 permission were not complied with;

¹ 12/01001/CU

various works were undertaken which did not reflect the approved scheme; and, the permission subsequently lapsed". The appeal scheme therefore seeks regularise the development that has already been undertaken and complete the development of the site. I have determined the appeal on this basis.

5. While referred to as holiday lodges, the appellant has clarified that the units are moveable static caravans on wheels that are sited on top of axle stands, which are in turn sited on concrete bases with fixed services.

Main Issues

6. The main issues are:

- Whether the proposed development would be acceptable in respect of the risk of flooding
- The effect of the appeal scheme on the character and appearance of the area

Reasons

Flood Risk

7. The appeal scheme proposes new holiday lodges on land included within flood zones 2 and 3 and holiday lodges are defined in national guidance as being 'More Vulnerable', as such a Flood Risk Assessment (FRA) was carried out by the applicant.
8. Policies DM33 and DM52 of the 'Review of the Development Management DPD' adopted in July 2020, in so far as relevant to the appeal scheme, requires proposals to take account of and mitigate the effects of flooding and satisfy the requirements of the sequential test and exception test where necessary. This echoes the approach of the Framework and Planning Practice Guidance (PPG).
9. In accordance with these requirements, the appellant produced a site-specific flood risk assessment. The first FRA was found by the Environment Agency (EA) to be deficient. A later revision however did satisfy the EA, the consultation response² stated "The applicant has demonstrated that there will be no ground raising on site, climate change allowances have been taken into account and finished floor levels will be raised 600mm above the design flood event" and the objection regarding flood risk has been withdrawn.
10. Furthermore, in a letter dated 26 April 2023 the LLFA states, as referred to previously, that as a result of the "updated drainage strategy report addendum and associated drawings" the authority has no objection to the proposals and recommends a number of conditions.
11. Despite the belated positive responses from the specialist consultees, the EA and the LLFA, the Council has continued to dispute the acceptability of the appeal scheme with regards the risk of flooding.
12. The appellant has submitted details in response to both the exception test and a sequential test examining alternative sites to accommodate the proposed development.

² Environment Agency letter to Lancaster City Council dated 24 September 2019

13. The parameters of the Sequential Test were agreed between the parties, the SoCG describes the search area as including "Lancaster District and 15 Kilometres into the adjoining South Lakeland". Based on the evidence before me I am satisfied that this adequately reflects the catchment area for the proposed development in accordance with the guidance set out in the PPG.
14. Furthermore, the site requirements and sources for the search which includes the Strategic Housing Economic Land Availability Assessment, South Lakeland the Call for Sites Report 2020 and three property agents is reasonable and comprehensive. The appellant's response to sequential test considered a number of sites, all were ultimately discounted due to various but reasonable and justified factors.
15. Despite the sequential test being carried out in accordance with the parameters provided by the Council, the findings are not accepted by the Council. Paragraph 4.2.12 of the Council's Statements details simply that "the LPA do not accept the findings of the Sequential Test as given the nature and type of District it is considered that suitable sites for tourism development are bound to exist as in sites with a lower risk of flooding." However, no deficiency with the appellant's search is substantiated by the Council. The sites referred to by the Council are not comparable alternative sites for the appeal scheme, in particular due to their size.
16. The Council's statement acknowledges that they have not carried out a detailed search but makes an assumption that of the holiday parks within the district a proportion lie in flood zone 1 and therefore to which extensions to provide 138 additional holiday units could be created. At the hearing reference was made to planning permission having been granted for some 163 caravans/ lodges since 2018. However, these schemes appeared not to be comparable schemes and nonetheless were not available alternative sites for the appeal scheme.
17. The appellants have completed a search in accordance with reasonable parameters, agreed with the Council, and have not identified a sequentially preferable site for the proposed development. I am not persuaded by the Council's unsubstantiated assumptions and as such I am satisfied that it has been demonstrated that there are no preferable sites available and as such the sequential test is satisfied.
18. Turning to the exception test, the test requires that it be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and that it will be safe for its lifetime.
19. In this regard the appellant points to the creation of jobs, a boost to the local economy from the spending of additional tourists and what the appellant describes as social and environmental opportunities for people to enjoy the countryside. Furthermore, I note that the appeal scheme includes ecological enhancements.
20. As referred to previously both the LLFA and the EA are satisfied, subject to conditions, that the development has taken account of the design flood event and would not increase the risk of flooding off site and in this context, I am satisfied that the wider sustainability benefits to the community of the appeal scheme do outweigh the flood risk. As such, I am satisfied that the exception test is met.

21. To conclude this main issue, for the reasons detailed above and subject to appropriate conditions, I find that the appeal scheme is acceptable in respect of the risk of flooding and therefore is not contrary to Policies DM33 and DM52 of the 'Review of the Development Management DPD', National Planning Policy Framework and the PPG.

Character and appearance

22. The decision notice refers to Policies DM46, DM52 and DM29 of the Review of the Development Management DPD. Policy DM29 is referred to in the decision notice but not specifically referred to in either the officer's report or the Council's appeal statement. The policy sets key design principles referring to matters such as the character of the area, creating spaces that are adaptable to environmental change and deliver net gains in green infrastructure.
23. The appeal site consists of an old quarry, within which there are a number of existing bodies of water, tracks and existing holiday lodges associated with the earlier planning application.
24. I saw at the site visit that, as a result of the established boundary trees that creates an effective screen, the topography of the land and the neighbouring M6 motorway, the appeal site is not widely visible to the surrounding area. Some views across parts of the site are available from the junction of the A6070 and Borwick Lane from Borwick Lane itself.
25. However, in that instance the appeal site and proposed development would be viewed within the context of neighbouring existing holiday lodge developments. Indeed, within the local vicinity of the appeal site there are a number of holiday lodge, caravan parks and similar developments, such that the presence of the proposed development would not in itself be out of character for the area.
26. As identified by the Council, the new units are not arranged around a lake or other feature but nonetheless appear on the submitted plans as a typical holiday lodge development with large landscaped and green spaces.
27. The submitted plans show the two groupings of holiday lodges that are already in place on site and a further large grouping of lodges based around a meandering internal access road. Considerable existing vegetation is shown as being retained, in addition to grassed areas, tree and shrub planting. Hedgerows are shown as providing a degree of separation where lodges are positioned back-to-back.
28. I have not been provided with a definitive density of the proposed development in comparison to other nearby developments but the submitted plans do not appear to be of a significantly different density to the adjacent South Lakeland Leisure Village.
29. On this basis I am satisfied that the appeal scheme, subject to appropriate conditions, is not contrary to and thus is supported by policy DM46 of the Review of the Development Management DPD that supports development that is in "scale and keeping with the landscape character and is appropriate to its surroundings in terms of siting, scale, massing, design, materials, external appearance and landscaping".
30. Policy 52 of the Review of the Development Management DPD criterion I prioritises the re-use of previously developed land and requires that "it should

be demonstrated that no alternative, suitable brownfield sites exist in the locality". Paragraph 5.6.4 of the appellant's Appeal Statement examines the sites identified in the earlier land search and the in the brownfield register, the appellant finds that none of the previously developed sites meet the parameters of the proposed development. The Council has not identified any alternative suitable previously developed site.

31. I am satisfied that the approach taken by the appellant is reasonable and that the sources of land examined, including the Council's own Brownfield Register, are comprehensive such that an alternative previously development site would have been identified if one were to exist. On this basis I am satisfied that the appeal scheme is not contrary to policy DM52.
32. On the basis of the evidence before me I am satisfied that the appeal scheme would not harm the character of the area, has taken account of environmental change, with particular regards to flood risk and delivers a net gain in green infrastructure. As such the appeal scheme is not in conflict with policy DM29.
33. To conclude this main issue, I am satisfied that the appeal scheme would not harm the character and appearance of the area and thus is not contrary to Policies DM29, DM46 and DM52 of the Review of the Development Management DPD.

Other Matters

34. Many local residents have made reference to the fact that the application seeks retrospective planning permission for works already undertaken at the site. While such an approach is generally undesirable, the planning system and policies are not punitive in this respect and as such the unauthorised works do not weigh against the appeal scheme.
35. I note that the appeal scheme proposes no additional facilities for use by the residents, but as detailed by the appellants, future residents would have the use of those facilities at the adjacent South Lakeland Village development, and I have no substantive evidence before me to suggest that these facilities are inadequate or otherwise lack the capacity to accommodate the additional residents.
36. The condition suggested by the specialist consultee the LLFA, required the surface water sustainable drainage strategy be approved prior to occupation of the development, it is noted that part of the appeal scheme is retrospective and that many units are already occupied. The Council suggests that there is "no certainty that surface water from the site can be adequately dealt with". However, the Appellant has provided further details in respect of surface water drainage as part of the Appeal submission. These details were considered by the LLFA and subsequently issued their consultation response. On the basis of the evidence before me I am satisfied that an appropriate surface water drainage strategy can be prepared and implemented in respect of the site and that an appropriate adjustment can be made to the wording of the condition suggested by the LLFA to reflect particular circumstances of the appeal.

Conditions and Unilateral Undertaking

37. The appellant has submitted a signed Unilateral Undertaking that includes measures to prevent the units being occupied as permanent residential units,

remain in holiday use and to maintain a register of the names of the owners of the units.

38. I have considered conditions to be imposed in light of the national Planning Practice Guidance and the use of planning conditions and Paragraph 56 of the Framework as well as the submissions of the Council and appellant.
39. I have included a condition to control the approved plans, the maximum number of units to be located on the site and restricting the occupation to holiday accommodation only to define the permission and in the interests of clarity.
40. In the interests of the environment, I have included conditions relating to flooding to require the submission within three months of the date of this decision and subsequent implementation of a of surface water sustainable drainage strategy, the implementation of the foul drainage scheme and to ensure that the appeal scheme is carried out in accordance with the FRA.
41. Also, in the interests of the environment I have included conditions relating to a landscape management plan, hard and soft landscaping details, tree protection measures, the implementing of the appellant's ecology appraisal, the eradication of Japanese knotweed, external lighting and a construction management plan.
42. In the interests of the character and appearance of the area I have included condition to control the external colour of the units.

Conclusion

43. For the reasons given above I conclude that the appeal should be allowed.

Mr M Brooker

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - : Drawing number 1001 Rev. A – Site Layout
 - : Drawing number PR/PLO1/LOC – Location Plan
2. Within three months of the date of this permission a surface water sustainable drainage strategy, including a maintenance regime, (based on the hierarchy of drainage options in the National Planning Practice Guidance and evidence of an assessment of site conditions), and a timescale for implementation shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented and operational within the agreed timescale and prior to further occupation of the development and shall be maintained in accordance with the approved details at all times thereafter.
3. No further development shall commence until a Landscape Management Plan, indicating long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (other than any privately owned residential gardens) has been submitted to, and approved in writing by, the local planning authority. The Landscape Management Plan shall be adhered to at all times thereafter.
4. No further development shall commence until details of the hard and soft landscaping of the site (including wherever possible the retention of existing trees and hedges) and its maintenance regime have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented in the first planting season following completion of the development, or following first occupation/use, whichever is the earlier, and maintained at all times thereafter in accordance with the approved maintenance regime.
5. No further development shall commence until a Tree Protection Scheme has been submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with such agreed detail, with the approved protection measures being fully implemented prior to any equipment, machinery or materials being brought onto site, retained in situ for the duration of the works, and only removed once the development is complete and all machinery and works material removed from the site.
6. The development shall be implemented in accordance with the recommendations within section 7 of the Update Ecological Appraisal Report (Biora). In particular no further development shall be carried out until the following details referred to in section 7 have been submitted to, and approved in writing by, the Local Planning Authority.
 - : Precise details of Habitats Compensation measures.
 - : Reasonable Avoidance Methodology (RAMs) Statement
 - : Details and locations of bird boxes

The development shall be carried out in accordance with the agreed details and where required by the approved mitigation, the measures shall be retained and maintained within the development at all times thereafter.

7. Within 3 months of the date of this consent, a detailed Ecological Management Plan (including habitat creation, enhancement, to land, woodland, water bodies, bat and bird mitigation and long term management plan, monitoring regime and failure management shall be submitted to and be approved in writing by the local planning authority. The agreed Ecological Management Plan shall be implemented immediately upon agreement with the local Planning Authority and thereafter maintained in accordance with the agreed regime.
8. No further development shall commence on site until a Management Plan for the eradication of Japanese Knotweed from within the site shall be submitted to and be approved in writing by the local planning authority. The development shall be undertaken in accordance with the Management Plan.
9. No further development shall take place until lighting proposals have been submitted and approved. The development shall be undertaken and thereafter maintained in accordance with the approved proposals.
10. No further development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.
 - ix) Protection of protected species during construction works

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

11. No further development shall take place until details of the colour of lodges has been submitted to, and agreed in writing by, the local planning authority. The development shall be carried out in accordance with the agreed details and retained and maintained as such at all times thereafter

- 12.No further development shall take place until details of the secure cycle storage have been submitted to, and approved in writing by, the local planning authority. The development shall then be constructed in accordance with the approved details.
- 13.The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA).
- 14.Within three months of the date of this permission details for the disposal of sewage, including a timescale for implementation, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented and operational within the agreed timescale and prior to further occupation of the development.
- 15.No more than 138 units shall be located within the site hereby approved at any one time, and these shall be sited and laid out in accordance with drawing number 1001 Rev. A – Site Layout.
- 16.The development hereby approved shall be used for holiday accommodation only and shall not be occupied for any other purpose. In particular they shall not be used as the sole or principal residence by any of the occupants.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Jerry Holliday
Alexis Tipal
Chris Betteridge
David Owen

FOR THE LOCAL PLANNING AUTHORITY:

Fiona Clark
Peter Williams