



Appeal Decision

Site visit made on 26 July 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/W9500/W/23/3314457

Fox and Hounds Inn, Slapewath, Guisborough TS14 6PX

- 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 Abid Hussain against the decision of North York Moors National Park Authority.
 - The application Ref NYM/2022/0573, dated 29 July 2022, was refused by notice dated 12 September 2022.
 - The development proposed is to create new kiosk and new charging facility for six cars on open grassed area for additional hotel facilities and the benefit of adjacent businesses.
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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;
 - whether sufficient information has been provided to identify and assess the risk of flooding associated with the proposal; and
 - the effect of the proposed development on the living conditions of nearby residents, having particular regard to noise and disturbance, lighting and cooking odours.

Reasons

Character and appearance

3. The appeal site, which is in the North York Moors National Park (the National Park), is a grassed area which forms part of a small island of land bounded by the A171 and a short loop road that wraps around the land providing access to Slapewath at two points from the A171. The top of one bank of the Alumwork Beck, which is partially culverted and sits in a deep narrow steeply sided valley, is also positioned adjacent to the site. The development proposed would be located on a generally flat area of the appeal site, the remainder of which slopes up to a plateau adjacent to the A171 where substantial mature trees largely screen the appeal site from that road.
4. The approach to the appeal site from the junctions with the A171 is noisy because of the constant flow of vehicles of all sizes travelling at speed along that road. However, in positions on the loop road immediately adjacent to the

appeal site, that traffic noise is largely muted by the effects of topography and the dense tree planting.

5. The appeal site is fenced and gated alongside the loop road by low timber post and rail fencing, a narrow pedestrian wooden gate, and taller wider metal railing gates which appeared to be padlocked. Signs identify the land as being private. However, the site is said to have been used as part of the Fox and Hounds pub for many years and therefore an association between the two has arisen. Notwithstanding the ownership of the site, it nevertheless provides an important open space which is valuable for its visual quality.
6. The proposal comprises a timber-clad pitched-roof building which would be located towards the back (south) of the site, and a driveway and parking area with associated individual electric vehicle charging stations located towards the front (north) of the site.
7. The appellant refers to Strategic Policy K of the North York Moors National Park Authority Local Plan July 2020 (the Local Plan), the intention of which is to promote and protect existing businesses by providing flexibility for established rural businesses to diversify and expand. This approach is generally consistent with the aims of the National Planning Policy Framework (the Framework) in supporting a prosperous rural economy.
8. An explanation has been provided regarding the independence from each other of the three separately named facilities provided at the Fox and Hounds, which comprise a pub, hotel and café, and I saw that each appeared to have its own entrance. The appellant owns all three properties, and I am led to understand he is directly associated with the operation of only the hotel. The intention for the proposed building is to operate, at least in part, as an ancillary service for hotel guests by providing breakfast. The electric vehicle charging facility would also operate for the benefit of hotel guests. These arrangements are sufficient to meet the general requirement of association between a proposal and an existing enterprise expected through Policy BL8 of the Local Plan. The proposal would therefore contribute towards achieving the intentions of the development plan and the Framework in respect of supporting the rural economy.
9. However, Policy BL8 of the Local Plan further qualifies the support for such proposals in that they should not result in a cumulative increase in activity which would have an unacceptable impact on the character of the area. There would inevitably be an increase in activity in the area associated with the arrival, stationing and departure of customers' vehicles using the proposed electric vehicle charging facility, and with the use of the proposed kiosk by customers outside the period where breakfast would be served to hotel guests. The introduction of both elements of the proposal to this open space which comprises an integral part of the character of Slapewath would bring added activity to the space which would significantly alter its character.
10. The information provided to me does not describe any expectations concerning the number of vehicles that would enter and leave the charging bays in any one day. However, vehicles would be parked for not insignificant periods of time while charging. The introduction of vehicles and their movement onto and away from the site would harmfully alter the generally open appearance of this pleasant, grassed area.

11. The proposed driveway, parking and charging space is intended to be constructed using a 'grasscrete' or geotextile material. This would cover a substantial portion of the flat part of the appeal site. Such open textured alternatives to hard or bound surfacing offer benefits in respect of, for example, permeable drainage. However, it is reasonable to anticipate that such materials would noticeably differ in texture and appearance to natural grass, particularly when seen from close proximity as would be the case here.
12. In respect of the materials proposed for the surfacing of the parking area the proposal before me is agreed by the main parties as an improvement on a previous scheme, the details of which I have not seen. Nevertheless, this does not alter my assessment that the proposed geotextile material, owing to the extent of its area coverage, would be visually discordant and appear out of place to the detriment of this open space's character and appearance.
13. Given its prominent location alongside the access loop road which also forms part of the Cleveland Way long-distance footpath, the discordant effect on the generally open character of the site of the proposed access driveway, parking areas and the associated vehicle charging stations would be plainly visible from views along the public highway, the long-distance footpath, and from nearby properties at Slapewath Cottages.
14. The proposed kiosk building has been designed to echo local historic industrial associations, specifically in respect of buildings found alongside railways, and would utilise sensitive materials. However, it would be noticeably larger and more conspicuous than any of the existing structures on the site. Indeed, even when noting the intention to clear existing paraphernalia from the site as part of the proposal, the building would appear as an unduly prominent structure. This is notwithstanding its backdrop of mature trees.
15. Furthermore, notwithstanding the nearby route of former railway lines, the site itself appears to offer little obvious visual connection to assist in tying the proposed building visually to the industrial heritage of the area. Instead, it would be seen as an unrelated and incongruous building largely divorced from, and at odds with the design, external appearance and layout of other buildings in Slapewath.
16. The proposed development would replace various items of play equipment, seats, tables, a raised decking area and a covered seating area which are said by the appellant to have been in place for many years. The Local Planning Authority (the LPA) has, to the contrary, suggested that existing structures on the appeal site have been recently constructed and are unauthorised. Nevertheless, owing to the modest scale and lightweight design of the existing installations, the site has maintained a relatively open and verdant appearance. Thus, the status of the existing structures is not determinative to the outcome of my consideration of this main issue.
17. For these reasons I find the proposed development would be unduly harmful to the character and appearance of the area. The proposal conflicts with Policy BL8 and Strategic Policy C of the Local Plan which, in summary, amongst other things require high quality design that will make a positive contribution to the local environment and resist development where a cumulative increase in activity would have an unacceptable impact on the character of the area. Further, while the effects of the proposal would be localised, the proposal conflicts with paragraph 176 of the Framework insofar as it would fail to

conserve and enhance the landscape, cultural heritage and scenic beauty of the National Park, a matter to which I attribute great weight.

18. The LPA's reasons for refusal make reference to the Authority's Design Guide. However, I have not been provided with that document or relevant extracts and therefore have been unable to have regard to it in making my decision. In any event, I have identified harm to the character and appearance of the area and clear conflicts with the development plan and the Framework.

Flood risk

19. The appeal site is located in an area identified as being within Flood Zone 3a. Footnote 56 to paragraph 167 of the Framework requires that '*A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3.*' The appellant claims, by reference to the Planning Practice Guidance¹, that the form of development proposed is less vulnerable. However, this does not negate the need to undertake a site-specific flood risk assessment and provide the conclusions of that assessment in support of the proposal. This is consistent with the stance taken by the Environment Agency in its important role as a statutory/technical consultee.
20. On this main issue I find that insufficient information has been provided to identify and assess the risk of flooding associated with the proposal. Thus, on this basis, I identify harm. I have not been provided with the text of Policy ENV5 of the Local Plan. However, the proposal conflicts with the requirements of paragraph 167 and footnote 55 of the Framework for the reason I have given.

Living conditions of nearby residents

21. Policy BL8 of the Local Plan qualifies the support for proposals that are ancillary to an existing enterprise by requiring that they should not result in a cumulative increase in activity which would have an unacceptable impact on the amenity of local residents. The LPA explains its concerns further in this regard by reference to the effects of noise and disturbance associated with the proposal, and the effects of car headlights and lighting in the proposed building in the evening, and cooking odours associated with food served at the proposed kiosk.
22. My inspection took place around midday on a weekday. Although just a snapshot in time, I observed that the area was generally quite busy with customers seated outside the pub, hotel, and café. Parked cars occupied most of the unrestricted parking space available along both sides of the highway to the front of the appeal site. I have no reason to expect that this would not be typical of most days during the summer months.
23. The proposed kiosk would provide breakfasts for hotel guests, and this may involve re-heating food. However, for the remainder of the day, food would be provided from vending machines. Further, the type of products sold from the proposed kiosk could reasonably be controlled via planning condition (for example, certain restrictions could be placed on the sale of hot food or the specification of kitchen equipment), as could the opening hours. When also factoring in the somewhat modest size of the proposed kitchen space, it is unlikely that cooking odours would arise to any harmful extent. In this respect

¹ Paragraph: 079 Reference ID: 7-079-20220825, Table 2: Flood risk vulnerability and flood zone 'incompatibility'

the proposal would not result in harm to the living conditions of nearby residents.

24. Car headlights would be visible in oblique views from nearby houses, and light spillage is likely to occur more generally from car headlights on the appeal site on occasion. However, given the relative differences in ground level between the site of the proposed car parking spaces and the nearby houses, and the current movement of vehicles into Slapewath from the A171, I find it unlikely that material harm would arise to living conditions from the presence or movement of car headlights associated to the appeal proposal.
25. Lighting in the kiosk would likely be noticeable in the evening and early mornings during autumn and winter. However, the duration of this effect could reasonably be controlled through planning conditions limiting the hours of operation of the kiosk. In any event, this is unlikely to be a source of harm to the living conditions of nearby residents in respect of external artificial lighting given the context of the hamlet immediately adjacent to a main road and the proximity of Slapewath Cottages to the junction of the loop road with the A171 where tall streetlights are positioned at either side of that junction.
26. When considered alongside current pedestrian and vehicular movements in the vicinity of nearby houses, and the activities of patrons at the various existing facilities, the cumulative impact in terms of noise and disturbance to existing residents arising from either the use of the proposed kiosk building or the electric vehicle parking and charging area would not add significantly or harmfully to noise and disturbance found in the area currently.
27. For these reasons, I find that the proposed development would not be harmful to the living conditions of nearby residents having particular regard to the effects of noise and disturbance, lighting and cooking odours. Accordingly, the proposal would not conflict with Policy BL8 of the Local Plan insofar as it seeks to ensure that the cumulative increase in activity would not have an unacceptable impact on the amenity of local residents.

Other Matters

28. Representations from interested parties raise various concerns about the proposed development in addition to the matters set out in the LPA's reasons for refusal. However, given the unsuccessful outcome of the appeal it is not necessary for me to examine those additional concerns any further here.
29. The provision of electric vehicle charging facilities would promote climate change adaptation and offer clear environmental benefits and provide a valuable amenity for visitors and the local community, matters which would accord with the aims of the Framework in respect of supporting a prosperous rural economy and meeting the challenge of climate change. The proposed kiosk, I note, would also support the local economy and offer a facility for the local community making effective use of land. These benefits are noted in the support for the proposal provided by Lockwood Parish Council, and I attribute considerable positive weight to them in cumulative terms.
30. However, the scheme's benefits would not outweigh the significant harm and associated policy conflict that would arise to the character and appearance of the area, and the additional harm that I have identified as a result of

insufficient information having been provided to identify and assess the risk of flooding associated with the proposal.

31. Moreover, the proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

32. For the reasons given above, the appeal is dismissed.

David English

INSPECTOR