



Appeal Decision

Site visit made on 6 June 2023

By C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/P2935/W/23/3315009

**Fisherman's Lodge, next to Waterside Cottage, Acklington,
Northumberland NE65 9AU**

- 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 Guyzance Hall Estate Ltd against the decision of Northumberland County Council.
 - The application Ref 21/02287/FUL, dated 4 June 2021, was refused by notice dated 14 September 2022.
 - The development proposed is described as convert and extend an existing but now redundant cow byre on the Guyzance Estate for permanent residential use (Use Class C3) as well as using the property for intermittent holiday use in line with the use of other residential property on the Guyzance Estate.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been submitted by the appellant against Northumberland County Council in respect to the appeal. This is the subject of a separate Decision.

Preliminary Matters

3. The site address and description of development contained in the heading above are those cited by the appellant on the original application form as there is no evidence before me that they were formally modified by mutual agreement.
4. The Council has confirmed that it no longer seeks to pursue its 3rd reason for refusal relating to minerals sterilisation. In view of the relevant evidence before me, I have no cause to disagree with that revised stance. A duly signed unilateral undertaking has been submitted as part of the appeal submission to secure contributions to the Coastal Mitigation Strategy in respect to potential increased recreational disturbance. Consequently, the Council has confirmed that it no longer wishes to pursue its 4th reason for refusal. I address the approach to my Duty in respect to the Habitat Regulations later. The scope of the main issues has been framed accordingly.
5. The appellant has disputed the validity of the Acton Dene Ancient Woodland ("the ADAW") boundaries as defined in Natural England's Ancient Woodland Inventory. I observed that the undeveloped part of the appeal site is currently

experienced as part of a clearing in a wider very well-established woodland by virtue of the host building's particular location relative to the surrounding trees, ground cover and neighbouring agricultural land. There has been recent loss of some tree cover within the immediate vicinity of the appeal building through storm damage. However, the important credentials of an ancient woodland extend beyond its trees, to its soils and ground cover which support its ecosystems. In the absence of any distinguishing physical features to lead me to find otherwise, I conclude that with the exception of the access track, building and its enclosed forecourt, the remainder of the appeal site could be reasonably interpreted as falling within the ADAW. My assessment of the appeal scheme is based on that position.

Main Issues

6. The main issues are therefore:

- whether or not the appeal proposal accords with the adopted spatial strategy for the area; and
- the effect of the appeal proposal on local environmental assets, with particular regard to the integrity of the ADAW and the River Coquet and Woodland Site of Special Scientific Interest ("the SSSI").

Reasons

Spatial strategy

7. The appeal building is an aged stone built former cow byre which occupies a secluded position within woodland associated with the wider historic Guyzance country estate. Its secluded, tranquil, verdant immediate setting is derived from its location within the fringe of undulating ancient woodland and the neighbouring River Coquet and network of fields which can be experienced along the rough narrow access track that serves the appeal site. As the byre is located well beyond any defined settlement boundaries or hamlet in planning policy terms it occupies a countryside location. It is remote from services, facilities and public transport opportunities.
8. Policy STP 1 of the Northumberland Local Plan ("the Local Plan") sets the spatial strategy for the County and seeks to deliver development which enhances the vitality of communities across Northumberland, supports economic growth and conserves and enhances the County's unique environmental assets.
9. There would be a strong reliance on motor vehicles regardless of whether the appeal building was occupied on a permanent occupancy or holiday-let basis. This would not strictly accord with Policy STP 3 (j) of the Local Plan. However, although Policy STP 1 seeks to minimise journeys, it gives support to certain residential proposals in countryside locations, and this is underpinned by other policies, including Policies ECN 15 and HOU 8 of the Local Plan.
10. Within this spatial strategy context, I have no cause to dispute the Council's stance that the appeal proposal, insofar as it relates to visitor accommodation, would accord with Policy ECN 15 of the Local Plan. Additionally, Policy HOU 1 of the Local Plan supports the principle of conversion of existing buildings to a residential use. However, this must be set within the context of other relevant development plan policies.

11. In terms of the proposed permanent living accommodation use, criterion (b) of Policy HOU 8 of the Local Plan gives support to proposals which represent the optimal viable use of a heritage asset or appropriate enabling development to secure the future of a heritage asset. Criterion (c) of that policy supports the reuse of redundant or disused buildings where its immediate setting would be enhanced. These policy criteria are consistent with paragraph 80 of the National Planning Policy Framework ("the Framework").
12. In making my assessment against criterion (b) of Policy HOU 8, I note that although the appeal building is not contained within any published heritage asset register, the Council has recognised that it is a candidate non-designated heritage asset. Given the extent and nature of its remaining built historic fabric and association with the wider Guyzance Estate, this is a reasonable stance, and it is these attributes which define its architectural and historic significance.
13. Crucially however, the evidence before me does not sufficiently demonstrate that the appeal proposal is the optimal viable use for the site or that it represents appropriate enabling development to secure the future of a heritage asset. Therefore overall, it has not been demonstrated that the appeal proposal would meet criterion (b) of Policy HOU 8 and also paragraph 80(b) of the Framework. However, I accept that the appeal proposal would have scope to secure the longevity of the appeal building. It would accord with criterion (d) of Policy STP 3 of the Local Plan given its contribution to one of the County's historic assets.
14. Policy ENV 1 of the Local Plan states that the character and significance of the County's distinctive valued historic environment will be conserved, protected and enhanced. Policy ENV 7 of the Local Plan reflects paragraph 203 of the Framework which requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining the application. There would be some visible external changes to facilitate its reuse for living accommodation. This would include the reinstatement of a traditional roof covering and the repair and re-use of an under-utilised traditional rural building. Nonetheless, overall there would be no adverse impact on the significance of this building.
15. In line with Policy ENV 7 and paragraph 203 of the Framework, when weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement is required having regard to the scale of the harm or loss and the significance of the heritage asset. In this case no such harm or loss has been identified. I address this matter further later.
16. In the context of criterion (c) of Policy HOU 8, the appeal proposal would represent the reuse of a redundant or disused building. The submitted structural survey confirms that the building is capable of withstanding the proposed conversion works. The proposed extension would be of a sympathetic scale and design. However, to accommodate the proposed extension, garden and parking area the proposal would extend into an area whilst devoid of trees, falls within the extent of the ADAW.
17. Both visual and audial effects on the existing building's immediate setting would arise. There would be a loss of ground cover integral to the wider ADAW. Additional noise, disturbance and light pollution could arise from a residential occupation of the appeal property and its proposed private outdoor areas. It has not been clearly demonstrated that the measures which have been

proposed would adequately mitigate these effects. Regardless of the type of occupancy, the appeal proposal would cause a significant change in what is currently a mainly uninhabited area which would not enhance this particular setting.

18. Consequently, I do not find that this particular appeal proposal would meet the requirements of criterion (c) of Policy HOU 8 or paragraph 80 (c) of the Framework. Therefore neither would it meet the requirements of Policy ECN 14 of the Local Plan.
19. In summary, insofar as it relates to visitor accommodation, the appeal proposal reflects the approach to rural economic growth in Policy ECN 12 of the Local Plan. However, the appeal scheme does not fully accord with Policies STP 3 and ECN 15 of the Local Plan. Furthermore, when assessed as a whole, it has not been clearly demonstrated that the proposed reuse in this particular location meets any of the scenarios supported by Policy HOU 8 or Policy ECN 14 of the Local Plan.
20. In conclusion, overall the appeal proposal does not accord with the adopted spatial strategy for the area.

Local environmental assets

Effect on the ADAW

21. The appeal proposal would extend the existing host building and provide garden and parking areas and foul drainage arrangements beyond the footprint of both it and its existing enclosed forecourt. These would fall within the ADAW designation.
22. In addition to its trees, the ADAW's existing fungal communities and seedbank in its soils, its ground flora, the invertebrate and plant and fungal communities associated with dead wood are all very important elements of this resource. An assessment of the ancient woodland habitat has been submitted by the appellant which records a number of ancient woodland indicator species. I am aware that the appellant's Arboricultural Impact Assessment (v1) finds no material impact on root protection zones in terms of the areas to be developed. Furthermore, the area surrounding the appeal building has experienced some recent ground disturbance following maintenance work relating to recent storm damage.
23. There is no further response from Natural England subsequent to the appellant's submission of further information at the planning application stage. However, irrespective of the reasons for this it remains that the appeal proposal would not meet the 15-metre buffer specified by Natural England standard advice. I find that the extension, garden, and parking area components of the appeal proposal which would fall beyond the footprint of the existing building would represent physical encroachment into and loss of part of the ADAW. This would represent a direct adverse impact on this designation.
24. It has not been clearly demonstrated that the appeal proposal would not cause further unacceptable ground disturbance and increased compaction of soils as a consequence of the installation of the proposed tertiary drainage system. Furthermore, the appellant has accepted that some further compaction would arise from the construction stage and the laying out of the garden area.

25. The suggested imposition of a planning condition to remedy this and control the future maintenance of the proposed private garden area would not adequately limit the harm that would arise to the integrity of this part of the ADAW. Neither is this a reasonable constraint to place on prospective occupants and would not meet the prescribed tests for conditions.
26. Crucially, ancient woodland is an irreplaceable habitat. In this case there is potential for an adverse impact, albeit in a confined part of the ADAW. The provision of additional woodland elsewhere and the implementation of a Woodland Management Plan are insufficient to compensate for the particular geographically specific harm that could arise. Crucially, the reason for accepting further harm has not been demonstrated by the appellant to be wholly exceptional.
27. Policy STP 3 of the Local Plan states that proposals will be expected to contribute to the conservation and enhancement of Northumberland's natural environment assets and contribute to increasing the natural capital resource. Policy ENV 1 of the Local Plan states that the character and significance of the County's distinctive valued natural environment will be conserved, protected and enhanced. Policy ENV 2 of the Local Plan requires that proposals affecting biodiversity, including designated sites, minimise their impact. Where significant harm cannot be avoided, they must demonstrate that adverse impacts will be adequately mitigated or, as a last resort compensated for.
28. Policy QOP1 of the Local Plan requires that proposals contribute to a positive relationship between built and natural features and respect and enhance the natural environment. Part 3 of Policy QOP 4 of the Local Plan states that development resulting in the loss or deterioration of ancient woodland and ancient or veteran trees will not be permitted unless wholly exceptional reasons exist to justify any loss or deterioration and a suitable compensatory strategy has been proposed.
29. Collectively, this policy approach is consistent with paragraph 180 of the Framework which states that development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland and ancient or veteran trees should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. The extent of the impact is limited because of the previous ground disturbance and footprint involved. However, crucially the relevant policy context does not distinguish between scale of loss or deterioration.
30. In view of the adverse effects on the ADAW, the appeal proposal conflicts with Policies STP 3, ENV 1, ENV 2, QOP 1 and QOP 4 of the Local Plan.

Effect on the SSSI

31. It is evident that the appeal property is remote from mains sewerage systems. It is therefore proposed that foul sewerage arising from the appeal proposal would be dealt with via an existing package treatment plant and proposed tertiary treatment system. The foul sewerage solution proposed would be located to the rear of the appeal property, further into the ADAW. The appellant has confirmed that the system would discharge directly into the Mere Burn that feeds into the River Coquet. This SSSI is highly sensitive, including to further phosphate pollution.

32. In principle this off-mains approach is consistent with Policy WAT 2 of the Local Plan. However, this policy also requires careful consideration of the precise siting and design to ensure that there is no adverse impact on groundwater, water quality or existing eco systems.
33. Under regulation 14(1) of the Environmental Impact Assessment Regulations 2017 (SI 571/2017) likely significant effects have been screened out because of the nature, scale and location of the appeal proposal. However, that assessment still notes that there may be some impact on the surrounding area and nearby designated sensitive areas.
34. The appellant has stated that the proposed tertiary treatment system which would connect to the existing package treatment plant would ensure that "clean water" would be discharged through a silt trap into the Burn and would not give rise to a cumulative effect with other similar discharge points down river. However, there is insufficient technical evidence before me to corroborate that there would be no adverse change or any benefit arising to the existing position in terms of the level of phosphates, nitrates or other pollutants in the water course.
35. Therefore, I cannot conclude that both individually and, in combination with other treatment plants, that a suitable drainage solution would be achieved, and pollution avoided. Significantly, the absence of harm to this important environmental designation has not been demonstrated. Therefore, the requirements of Policy WAT 2 would not be fulfilled.
36. Paragraph 180 (b) of the Framework states that development on land within or outside a SSSI, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSIs.
37. The pending byway status of the access track is the subject of a separate process and, as such, it carries no weight. I attribute very limited weight to the proposal's role in the implementation of the wider Estate regeneration strategy in the absence of any planning status or mechanism available to link the appeal proposal to it. I accept that the appeal proposal would have scope to secure the longevity of a non-designated heritage asset, to which I give moderate favourable weight. The appeal proposal could also make a very limited contribution to supporting the visitor economy or the local housing supply. However, there is no evidence of an existing shortfall in either regard and the level of contribution to either is slight and so each carries limited favourable weight.
38. Nonetheless, I have found that there is potential for the appeal proposal to cause harm to the SSSI. As a significant matter, I attach significant weight to this. The benefits of the development in the location proposed do not clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSIs. Therefore, in the context of paragraph 180 (b) of the Framework the potential harm to this SSSI is not justified.

39. The identified potential for environmental harm could not be satisfactorily addressed through the imposition of a suitably worded planning condition limiting occupancy to a holiday-let only. Neither is there sufficient certainty that the identified harm could be avoided through the imposition of a pre-commencement planning condition to secure the submission and approval of appropriate foul drainage details.
40. Alongside the identified conflict with Policies QOP 4 and WAT 2 of the Local Plan, there is conflict with Policy STP 3 of that plan because it expects, amongst other things, that development proposals will contribute to the conservation and enhancement of the County's natural and water assets and contribute to increasing the natural capital resource. Furthermore, Policy ENV 2 of the Local Plan requires proposals affecting biodiversity, including designated sites, protected species and habitats and species of principal importance to minimise their impact and where significant harm cannot be avoided demonstrate that adverse impacts will be adequately mitigated or as a last resort compensated for. In view of the identified potential for harm there is also some conflict with this policy.

Other Matters

41. The appellant has evidenced that during surveys, a single day bat roost used was found within a gap in the stone wall of the building and is of local significance. The proposed mitigation for this and against increased light levels around roost locations, foraging and commuting areas is acceptable.
42. For the reasons given earlier, I attribute no weight to the appellant's arguments in respect to the benefits of the potential byway status. I attribute moderate weight to the identified heritage benefit of securing the reuse of the building but very limited weight to the proposal's role in the successful implementation of the wider Estate regeneration strategy. For the reason given earlier I also attribute limited favourable weight to the appeal proposal's contribution to supporting the local visitor economy or the supply of housing.
43. The imposition of a planning condition to restrict occupancy to holiday accommodation could resolve the conflict with the adopted spatial strategy. Significantly however, such a limitation would not adequately address the potential for adverse environmental impacts on the ADAW and SSSI to arise from the particular proposals before me.

Planning Balance

44. This particular appeal proposal accords with some parts of the local development plan policies. In line with paragraph 203 of the Framework a balanced judgement is required having regard to the scale of the harm or loss and the significance of the heritage asset. I attribute moderate weight to the heritage benefit that would arise. However, it remains that there are conflicts with the development plan in respect to the appeal proposal's accordance with the spatial strategy and adverse effects on important environmental assets. These cannot be addressed through the imposition of planning conditions.
45. Crucially, the nature and significance of the policy conflicts indicate to me that the appeal proposal does not accord with the development plan when read as a whole. Furthermore, this is not outweighed by the matters identified as weighing in favour of that particular proposal, including its contribution to the

supply of housing and, in the context of paragraph 203 of the Framework, the conservation of this non-designated heritage asset. Therefore, the Local Plan's presumption in favour of sustainable development set out in Policy STP 2 of the Local Plan is not met.

Habitat Regulations

46. The submitted unilateral undertaking seeks to mitigate potential recreational pressures on the Northumberland Coast Special Protection Area and Ramsar site and the North Northumberland Dunes Special Area of Conservation. However, as the appeal proposal has been found to be unacceptable for other reasons, it is unnecessary for me to undertake an assessment under the Habitat Regulations to inform my decision.

Conclusion

47. For the reasons given, I conclude that the appeal should be dismissed.

C Dillon

INSPECTOR