



Appeal Decision

Site visit made on 14 November 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2023

Appeal Ref: APP/X1165/W/23/3314568

Wall Park Touring and Century Road Camping Site, Century Road, Brixham TQ5 9ET

- 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 Nicholas Moss (Park Moss Ltd) against the decision of Torbay Council.
 - The application Ref P/2020/0966, dated 25 September 2020, was refused by notice dated 11 July 2022.
 - The development proposed is 10 touring pitches for 10 holiday static lodges.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant name provided on the appeal form differs from that on the planning application form. The Council were informed that the applicant name changed during the planning application process and prior to the determination of the planning application. Therefore, I have used the appellant name shown on the appeal form in the banner heading above.
3. The application was determined on the basis of a revised description that was agreed by the Council and the appellant. I have therefore used this description in the banner heading above.

Main Issues

4. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area with particular regard to the location of the site within the South Devon Area of Outstanding Natural Beauty (AONB);
 - the effect of the proposal on Local Green Space (LGS); and
 - whether the proposal demonstrates adequate drainage arrangements.

Reasons

Character and appearance

5. The appeal site is a touring caravan and camping site situated to the eastern edge of Brixham and within the AONB. Section 85 of the Countryside and Rights of Way Act 2000 requires that I have regard to the purpose of conserving and enhancing the natural beauty of the AONB and the National

- Planning Policy Framework (Framework) requires that great weight is given to conserving and enhancing the landscape and scenic beauty of the AONB.
6. The proposed units would be located on existing touring pitches, although in an area constrained by a previous planning permission (the previous permission) preventing camping use from September until end of May. The proposed location is also within a 'dark area' as specified within the previous permission with regard to protecting bats.
 7. The Devon Landscape Character Assessment places the site within the 'Forward Point to Berry Head' Devon Character Area. Characteristics highlighted include sparse woodland cover on the plateau and a mixture of regular modern and Parliamentary fields of medium to large scale. Amongst the forces for change, the growing demand for holiday accommodation and peace and tranquillity interrupted by high volumes of visitors was identified.
 8. The Council and appellant make reference to pages 71-72 of the Brixham Urban Fringe Landscape Study 2011 (BUFLS) and an 'abandoned derelict site'. However, these pages refer to the 'Torbay Holiday Chalet site' in compartment 21 of the BUFLS which the appeal site is not within, and therefore I find the relevance of these pages to the appeal site to be limited. However, the site is within compartment 2 (Berry Head Grassland Areas) of the BUFLS. The BUFLS describes the area as being a grassland corridor, but with various development which intrude into the corridor. The BUFLS provides development and design considerations for this area including that *'the principle of any new development of holiday accommodation being 'drawn back' from the AONB should apply, to give overall net environmental benefit'*.
 9. The site is neighboured by residential built form. At the time of my visit, touring caravans were sited within the northern and south-eastern part of the appeal site. Permanent buildings and boundaries include natural materials such as stone, timber and slate which add to the natural and traditional character of the area. However, an existing static unit at the site and touring caravans introduce metal and composite materials which also form part of the character of the area. Notwithstanding built form within and adjacent the appeal site and the existing use of the site, it retains an open verdant character.
 10. I observed that as the surrounding area is relatively flat and given hedging and surrounding planting, distant viewpoints of the appeal site are limited, although it is visible from Century Road. These observations accord with that of the appellant's Landscape and Visual Impact Assessment (LVIA) which focuses upon the visual effect from key receptors in the surrounding area. However, from nearby viewpoints, including from the site access, openings in the hedgerow, and gateways onto Century Road, the appeal site is prominent.
 11. Although the LVIA concludes that the appeal site and immediate landscape is of low landscape value, I observed that from the nearby viewpoints, acknowledging that at certain times of year the site would be utilised for touring caravans, the openness of the site is readily apparent and provides an important visual transition to the rural landscape beyond. This is further emphasised during the times of year that camping use of the location of the proposed units is restricted, giving a visual break between the touring caravans which are sited elsewhere within the appeal site during this period of time. The proposal would harmfully reduce this visual break.

12. Whilst the Council refer to the proposal featuring composite and coated metal finishes not in keeping with the local vernacular, details of the external materials are not specified. However, even if the finishes were timber clad as stated within the LVIA, the proposal would result in a permanent year-round addition into the landscape. Additionally, although hardstanding, roadways and associated infrastructure is seen elsewhere in the site, and notwithstanding the potential to secure alternative surfacing by planning condition, the proposal would further expand these urbanising features. In combination the proposal would introduce permanent built form into an area of the site which would inevitably erode the open verdant character, especially during months when not utilised for touring pitches.
13. The siting of the units would not require removal of existing hedging, and in time the native species hedge may grow to sufficient height to provide additional screening and soften the appearance of the proposal from Century Road. Nonetheless, the screening would be reduced during the winter months, at a time when the openness of the site is at its most apparent. This would therefore not sufficiently mitigate the visual intrusion of permanent built form into, and thereby reducing, the current openness of the site harming the surrounding landscape and character.
14. The AONB Officer did not object to the proposal on the grounds of impact on the landscape. However, for the above reasons I nevertheless conclude that the proposed development would harm the character and appearance of the area and the landscape and scenic beauty of the AONB would not be conserved or enhanced. It follows that the scheme would be contrary to policies SS8, SDB3 and DE1 of the Torbay Local Plan 2012-2030 (LP) and Policy BH5 of the Brixham Neighbourhood Plan Policy Document 2012-2030 (NP). These policies, amongst other things, seek development to be well designed, and conserve and enhance the landscape character and scenic beauty of the AONB. There would also be conflict with the provisions of the Framework, which seek, amongst other things, good design that does not compromise the special qualities and characteristics of the AONB as well as the protection and enhancement of the natural and built environment.

Local Green Space

15. Although the site is not depicted as public open space within the relevant Greenspace Site Assessment plan, the NP Policy Maps 1 and 3 clearly include the site within Local Green Space E4.4 Berry Head. I am therefore satisfied that the appeal site does fall within the designated Berry Head LGS. In such areas NP Policy E4 only permits development in very special circumstances and requires robust justification on grounds of specific benefit to the community.
16. Whilst I note the appellant's assertion that the appeal site is private land, NP Policy E4, or the Framework does not assert that LGS is required to be public land. Notwithstanding, it is put to me by the Council, and not refuted by the appellant, that an area (the recreational area) within the appeal site has previously been secured for community recreational use during autumn, winter and spring months via a planning obligation secured within the previous permission.
17. The proposal would not result in development on the recreational area. However, the designated LGS not only covers the recreational area, but also the site of the proposed holiday units. The proposal would inevitably result in

loss of part of the LGS and, as I have identified in the previous main issue, reduction in its openness. Moreover, it would disrupt views through the space towards the recreational area, particularly from gaps where the appeal site is visible from the adjacent highway.

18. Nevertheless, it has been put to me that the proposal would benefit the viability of the business, without which the existing recreational area would not be offered. Even if this is the case and this were to be considered a community benefit, no robust justification or substantive evidence has been provided to clearly demonstrate that the proposal is required for the ongoing provision of the recreation area or that any very special circumstances exist.
19. Consequently, the proposal would reduce the contribution that the LGS makes to the area. The proposal would therefore conflict with NP Policy E4 which seeks to provide protection for LGS.

Drainage

20. The appeal site is located within a Critical Drainage Area (CDA). LP Policy ER1 requires that development will be expected to maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Similarly, the Framework seeks to ensure that development does not increase flood risk elsewhere and requires that the development is appropriately flood resistant and resilient and it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate.
21. The proposal seeks to address surface water run-off via attenuation and a connection to the public sewer. The appellant's soakaway testing assessment states that a single soakaway test cycle was not completed in any trial pits due to slow infiltration rates. The assessment suggests that the infiltration characteristics of the soil underlying the site are unsuitable for soakaway drainage in this area of the site. However, the assessment does continue that *infiltration characteristics of soils can be variable both spatially across the site and with depth below ground level. Similarly, the depth to groundwater (and presence of perched groundwater) can also vary both spatially across the site and in response to seasonal fluctuations. It is possible that other areas of the site may be more favourable as the geology in this area is often very unpredictable.*
22. Notwithstanding, the appellant has also investigated other drainage options and I note correspondence from John Curtis BSc IEng MICE of JRC Consulting Engineers dated 9th January 2023 (the drainage correspondence). In regard to potential discharge to the Highways sewer, the Highways Authority have stated that a Highway drain has the sole use of serving highway drainage apparatus only and therefore would refuse permission to share the Highways drain.
23. The appellant also states that discussions are ongoing with South West Water (SWW). The drainage correspondence outlines that a final avenue of support was a point of connection application to SWW, with their analysis determining a connection to the sea 265m to the south of the site. However, although an estimate from SWW was received by the appellant, the drainage correspondence highlights numerous constraints including that there is no allowance for matters including additional risks and costs, riparian permissions

at the outfall, erosion control measures and concerns to the cliff and construction of a headwall and discharge to a SSSI.

24. On this basis the drainage correspondence contends that the most viable and sustainable point of connection is as illustrated on the submitted drainage layout¹ as a heavily attenuated discharge to the SWW combined sewer. Nonetheless, the drainage correspondence notes, if necessary, a more heavily attenuated scheme could be accommodated. However, concerns are raised relating to achieving a flow control with an orifice large enough to withstand blockages requiring negotiation with SWW in conjunction with a maintenance regime. Furthermore, the drainage layout also indicates attenuation within an area proposed within the scheme as wildflower planting. Even if the solution was necessary and achievable, I have no substantive evidence before me of any agreements with SWW to allow connection to the combined sewer.
25. Given the uncertainties, I am not satisfied that sufficient information has been provided to me that indicates an appropriate drainage solution, noting the hierarchy, is achievable. I am therefore concerned that any planning permission granted might be negated by the lack of suitable drainage facilities. Consequently, and notwithstanding the Council's suggested planning condition, this is a matter which should be resolved before planning permission is granted rather than leaving it to a planning condition.
26. Therefore, the proposal does not demonstrate adequate drainage arrangements contrary to LP Policy ER1, the purposes of which I have previously outlined. The proposal would also conflict with the provisions of the Framework in relation to ensuring development does not increase flood risk elsewhere and prevents unacceptable contribution to water pollution and contamination.

Other Matters

27. Tourism is an important part of the local economy in Torbay and is recognised as such within the LP which supports the retainment and enhancement of existing tourism facilities. The Framework also supports rural tourism including expansion of existing facilities where the countryside character is respected.
28. Although replacing existing pitches, the proposal would lengthen the season, potentially attracting visitors all year round. This would result in social and economic benefits from the associated guest spend in the area, and both additional and longer-term job creation. Given the scale of the proposal, I afford these benefits moderate weight.
29. However, I find in the overall planning balance, the benefits of the proposal are not sufficient to outweigh the harm to the character and appearance of the area, LGS or drainage that I have identified and the conflict with the development plan as a whole, to which I afford significant weight.
30. If the circumstances leading to the grant of planning permission had been present, I would have considered the impact of the proposal upon the South Hams Special Area of Conservation, in accordance with the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal on the main issues above, I have not found it necessary to consider such matters any further as this would not alter the outcome of the appeal.

¹ Drawing 2026/0500/P1

Conclusion

31. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington MA MRTPI

INSPECTOR