



Appeal Decision

Site visit made on 22 January 2024

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2024

Appeal Ref: APP/U1430/W/22/3304276

Central Car Park, Old Lydd Road, Camber TN31 7RH

- 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 J Hyatt against the decision of Rother District Council.
 - The application Ref RR/2020/558P, dated 16 March 2020, was refused by notice, dated 2 September 2022.
 - The development proposed is for the demolition of the beach lock ups and replace with boutique hotel including 'Dunes Bar' restaurant at first floor level (relocated from Old Lydd Road). New visitors centre and landscaping. Existing car parking spaces relocated to the over-flow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have used the description of development given on the Council's decision notice.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. Accordingly for the purposes of this decision I have referred to the latest version of the Framework. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.
4. The main parties agree that the site is allocated in the Rother District Council Development and Site Allocations Local Plan 2019 (DASA) for a comprehensive mixed-use development, which is supported by a 'strong commitment' to the principle of regeneration in the Council's adopted Camber Village Supplementary Planning Document 2014 (SPD). Therefore, the appellant has brought my attention to a planning application¹ for a residential scheme on Old Lydd Road for consideration in tandem with the appeal before me. This is noted, but I only have before me an appeal against the specific development set out in the header above. As such, notwithstanding the appellant's frustration with the timescales and procedures of the planning application process, this is a matter for the main parties and not within the remit of my considerations in the context of an appeal under section 78 of the Town and Country Planning Act 1990. Consequently, my determination will be confined to the main issues as set out below.

¹ RR/2020/555/P

Main Issues

5. The main issues in this appeal are the effect of the proposal on:
- the character and appearance of the area,
 - the living conditions of neighbouring occupiers, with respect to outlook, noise and disturbance,
 - flood risk,
 - highway safety,
 - archaeology, and,
 - the Dungeness Complex of Natura 2000 sites.

Reasons

Character and appearance

6. The appeal site is an area of land which is found at the end of Old Lydd Road and to the southern side of Second Avenue, Camber. The site includes Central Car Park which has 170 carparking spaces, public toilets, a lifeguard/coastal office, beach lock-up shops, and a café. To the west of the appeal site there is a row of residential dwellings that face the sea which are known as Marine Cottages.
7. Central Car Park is located to the north of the beach and has dunes on 3 sides. The dunes to the north of the carpark form part of the Camber Sands Local Wildlife Site (LWS) and are adjacent to the properties on Second Avenue, an over-flow car parking area and a public space known as Johnson's Field. The dunes to the east and west and the beach to the south are located in the Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI). The beach is also within the Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA) and Ramsar site. Collectively these designated sites of importance for biodiversity are known as the Dungeness Complex of Natura 2000 sites. The site also has sections which are shown to be in Flood Zones 2 and 3a on the Government's flood map for planning.
8. The limited built form on the southern side of Old Lydd Road is typified by modest one and two storey dwellings with simple fenestration and elevations that are constructed in muted, coastal type materials such as timber style weatherboards and/or white render. Examples within Central Car Park include Marine Café, the simple mono-pitch lock ups and Marine Cottages. These buildings are set apart which enables sight of the seascape beyond.
9. The proposal is for an 'event zone' and beach hut stalls to the front of a two-storey hotel building, that would also include a bar, restaurant, and a visitor's centre. The proposed development would be of some considerable scale and mass with first-floor glazed links and complex elevations that would be highly prominent in this location in comparison to the existing low-key buildings on the site. The appellant contends that the sectional design and staggered glazed links would not only minimise the visual impact of the proposal's massing but also retain acceptable views and access to the beach. I find to the contrary.

10. In a similar way to the seaward side fenestration and elevations of Marine Cottages, the glazed links are likely to become obscured by marine debris and covered in wind-blown sand. Hence, the links would appear as a horizontal barrier when viewed from any position within the proposed 'event zone' and beyond.
11. Moreover, the access routes would be relatively narrow in comparison to the established and spacious public access routes to the beach that are found between the existing buildings. Indeed, the continuous line of the bulky building would appear as an unwelcome visual obstruction in this sensitive location and have access arrangements to the beach that would be particularly unattractive and awkward for those with mobility issues.
12. Furthermore, while the external appearance of Marine Café would remain relatively unchanged, the convoluted elevations of the new construction would include numerous doors, windows, steps, offset glazed links and balconies that would be finished in a range of materials, including a number of 'living walls'. Accordingly, the proposal would be incongruous with the relatively plain elevations of the surrounding built environment.
13. The appellant argues that the proposal would be similar in design to the new extension at the Ashford Designer Outlet retail park. However, even if the 'living walls' here could survive the challenges of the coastal environment, the retail extension there has been constructed in the context of an urban rather than a coastal location. Therefore, I give this limited weight.
14. I conclude therefore, that the proposal would be at odds with the character and appearance of the area, and hence is contrary to Policy EN3 of the Rother Local Plan Core Strategy 2014 (RLP) and Policy CAM2 of the DASA, which say, amongst other things, that new development will be required to be of high design quality by contributing positively to the character of the site and surroundings.
15. For similar reasons, the proposal is contrary to Paragraph 135 of the Framework, which says that decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

Living conditions

16. While the occupiers of the proposed hotel and Marine Cottages would be directly adjacent to the new routes to the beach where footfall is likely to be busy at certain times of the year, the activity would nonetheless be consistent with this established leisure destination. Moreover, given the orientation of the proposal, I am persuaded that any overlooking of Marine Cottages from the proposed development would be limited and not dissimilar in extent to the existing arrangements on site.
17. However, the proposal would include the relocation of the existing parking spaces on Central Car Park to the rear of the sand dunes to the north and the area associated with the overflow car park. The new parking spaces would also be directly adjacent to the properties found on Sea Road to the west and Second Avenue to the north.

18. Consequently, the occupiers of these dwellings would not only look onto the de-vegetated hard surfaces of a car park rather than the natural features of the dunes, but would also be disturbed by noise, movements and lights associated with car-parking. For example, the starting and revving of engines, slamming of car doors, headlights, car-radios and fumes. This would come into conflict with the activities and leisure pursuits of the occupiers of the nearby properties wishing to enjoy their private garden spaces. In busier times of the year or day this activity is likely to be without much respite. My opinion is reinforced by the fact that, while the overflow car park is currently used from time to time, the proposal is for a permanent arrangement.
19. Overall, the proposal would harm the living conditions of the neighbouring occupiers and would be contrary to Policy OSS4 (ii) of the RLP which is clear that all development should not unreasonably harm the amenities of adjoining properties.

Flood risk

20. The proposal would in part be in Flood Zone 2 and 3a. As such, the site would be at very high risk of flooding, including by the sea.
21. While the shops, visitor centre and car park are classified as 'less vulnerable', the fact remains that the hotel is classified as 'highly vulnerable' to flooding. Nevertheless, the appellant contends that the proposed hotel would not have ground floor bedrooms and therefore, is at a lower risk than that suggested by the Council.
22. However, a specific Flood Risk Assessment has not been submitted by the appellant, including for surface water drainage. Therefore, as there are no surface water sewers located within the vicinity of the site and localised flooding has been reported over a number of recent years, I cannot be certain if this would be the case, or whether the proposal would result in an increase in flood risk elsewhere.
23. Hence, bearing in mind comments provided by the Local Lead Flood Authority, as the existing flood defences to the south and sand dunes are likely to be re-configured by the proposal, and taking a cautious approach in the interests of the protection of life, I find that the proposed development would be contrary to Policy EN7 (i) of the RLP, Policies DEN5 (ii) & CAM2 (iv) of the DASA, which say, amongst other things, that where development is proposed in an area identified as at flood risk, the applicant will be required to submit a site-specific Flood Risk Assessment which demonstrates that the development will be safe, will not increase flood risk elsewhere, and, where possible, will reduce flooding;
24. Similarly, the proposal does not meet the aims of Paragraphs 165 & 170 of the Framework, which aims include that development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Highway safety

25. From the evidence before me, the proposal would have a similar number of parking spaces to the existing provision on Central Car Park. I also note the proposed drop-off zone and disabled parking spaces near to the entrance with Old Lydd Road.
26. However, the proposed development would not have an agreed traffic management plan, such as, but not limited to, a one-way system as described in the SPD, or dedicated and regular rail-bus links to the nearby rail station at Rye. Therefore, while East Sussex Highways Department has raised no objections to the proposal, and even if the landowner were agreeable to the proposed car parking scheme, of which I cannot be certain, the attractions of the new 'event zone', hotel, bar, restaurant, visitor centre and beach hut stalls are likely to attract increased numbers of visitors arriving by car at the location all year round. For those reasons, notwithstanding the proposed cycle and walkways, I am in no doubt that the proposal would harm highway safety and be contrary to Policies CO6 (iii), TR3 & TR4 (i) of the RLP, and Policy CAM2 (iii) of the DASA, which require that a traffic management scheme is submitted to managed traffic impacts arising from the development, both during and after the construction period.

Archaeology

27. Paragraph 200 of the Framework and Planning Practice Guidance state that where a site includes, or has the potential to include, heritage assets with archaeological interest, developers should submit an appropriate desk-based assessment and, where necessary, a field evaluation.
28. It has been brought to my attention by the Council that the site contains World War II defence remains. Consequently, there is potential for heritage assets with archaeological interest on the site. A heritage statement is therefore required to consider any archaeological impacts arising from the proposed development. A heritage statement has not been submitted by the appellant. Therefore, the appellant's evidence is not sufficient to enable a proportionate judgement to be made on the significance of the heritage assets and the potential impact. In these circumstances, it follows then that the proposal fails to comply with the requirements of the Framework.
29. I conclude therefore, that in respect of archaeology, the proposal is contrary to Policy EN2 (vi) of the Rother Core Strategy 2014 (RCS) which requires that development affecting the historic built environment will be required to ensure appropriate archaeological research and investigation.
30. For similar reasons, the proposal does not meet the aims of Chapter 16 of the Framework, which seeks to conserve and enhance the historic environment.

Dungeness complex of Natura 2000 sites

31. The site is located within the Dungeness Complex of Natura 2000 sites. These sites include SPA and Ramsar, the SSSI and the LWS. Updated guidance from Natural England advises the proposal could potentially have significant effects on these designated European sites and the LWS, particularly in respect of encroachment and noise disturbance to breeding and over-wintering birds. Moreover, it has not been demonstrated by the appellant how the proposal will support the implementation of the Sustainable Access and Recreation Management Strategy in relation to the Dungeness Complex of Natura 2000 sites.
32. Given the type of proposed development and in my role as the 'competent authority', I am required to have regard to this matter. If I had come to a different conclusion on the appeal, it would have been necessary for me to undertake an appropriate assessment and given further consideration to the likely effectiveness of any mitigation measures. However, as I have found against the appellant on other main issues, and therefore planning permission is to be refused, this matter need not be considered any further in this case.

Other Matters

33. I note that part of the appeal site is held as private land. However, private rights of access have no bearing on the consideration of planning applications. Indeed, the consideration of planning applications and appeals involves matters of planning judgement.
34. The appellant has brought to my attention a number of matters in support of his case. These include the economic benefits related to increased and year-round patronage of services, shops and community facilities in Camber Village, employment opportunities and improved cycling, walking and bridleway routes. However, even in combination, these do not outweigh the harm I have found above.

Conclusions

35. The proposed development would conflict with the adopted development plan, and as there are no material considerations indicating a decision otherwise than in accordance with it, I conclude that the appeal should be dismissed.

J E Jolly

INSPECTOR