



Appeal Decision

Site visit made on 16 January 2024

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 5th March 2024

Appeal Ref: APP/U2750/W/23/3332134

Lilac Cottage, Skewsby, North Yorkshire YO61 4SG

- 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 S Bramall against the decision of North Yorkshire Council.
 - The application Ref 23/00524/FUL, dated 3 March 2023, was refused by notice dated 28 April 2023.
 - The development proposed is for a change of use of land for a shepherds hut, outdoor covered seating area and out building as shower/wc for use as holiday accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of the land to a caravan site for the siting of one shepherds hut, and the erection of an outdoor covered seating area and out building as shower/wc for use as holiday accommodation at Lilac Cottage, Skewsby, North Yorkshire YO61 4SG in accordance with the terms of the application, Ref 23/00524/FUL, dated 3 March 2023, subject to the following conditions:
 - (1) The permission hereby granted shall be retained in accordance with the location plan and drawing number 3223/01, received by the Local Planning Authority on 3 March 2023.
 - (2) Within three months of the date of this decision a landscaping and biodiversity net gain scheme with a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide:
 - a) a landscape scheme including details of any change in surfacing materials and any planting schemes and shall show the retention of any significant existing landscape features; and
 - b) details to show how a 10% net gain of biodiversity will be achieved on-site using the DEFRA biodiversity metric 4.0 (or the latest published version) and include a programme of work and subsequent maintenance arrangements.The landscaping and biodiversity net gain scheme shall thereafter be carried out in accordance with the approved scheme and timetable.
 - (3) The development shall comply with the following requirements that:
 - a) the shepherds hut is occupied for holiday purposes only;
 - b) the shepherds hut shall not be occupied as a person's sole, or main place of residence; and
 - c) the owners/operators shall maintain an up-to-date register of the names of all occupiers of the shepherds hut and their main home addresses. The owner/operator shall advise the Local Planning Authority

of the name and address of the holder of the records and shall make the information on the register available at all reasonable times to the Local Planning Authority.

- (4) Within three months of the date of this decision a site-specific Management Plan with a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate the adoption and use of the best practicable means to reduce the effects of litter, noise, site lighting and loss of amenity from neighbouring properties. The plan shall include, but not be limited to:
- a) procedures for maintaining good public relations including complaint management, public consultation, and liaison;
 - b) measures to mitigate and control litter from the site;
 - c) measures to mitigate and control noise from the site;
 - d) measures to mitigate and control emissions from the site (open fires, log burners, BBQ's, patio heaters etc); and
 - e) external lighting shall not be used until full details of the proposed lighting scheme have been submitted to and approved by the Local Planning Authority.

Preliminary Matters

2. The shepherds hut is currently used for letting purposes. On this basis, permission is sought retrospectively. I have determined the appeal based on the submitted plans.
3. In the development description, I have removed the wording 'continued use of', and 'retention' as the Town and Country Planning Act 1990 describes 'development' as 'the carrying out of building etc. operations or the making of material changes of use' and not as their 'retention' or 'continuation'. In technical terms, a shepherds hut is a caravan and not a building and permission is therefore required for the material change of use of land to a caravan site for the siting of the hut and for the associated building operations. It is also clear from the details provided that only one shepherds hut is proposed. I have amended the description in my formal decision to reflect these points.
4. Hambleton District Council has merged with several councils to form North Yorkshire Council. The development plans for the merged Local Planning Authorities remain in place for the area within the new authority until they are revoked or replaced. I have determined the appeal on this basis.
5. In November 2023 all designated Areas of Outstanding Natural Beauty became National Landscapes and will be referred to as such in this decision.
6. The Government published a revised version of the National Planning Policy Framework (Framework) on 19 December 2023. Whilst I have had regard to the revised Framework, the issues most relevant to this appeal remain unaffected by the revisions. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that such a course of action would disadvantage no party. For correctness, I have used the 2023 Framework paragraph references.

7. The Council refers to the development's parking space being removed from some of the application drawings and the appellant's proposal restricting occupancy to those arriving by non-car means such as walkers and cyclists. However, the provided location plan and drawing 3223/01 show the parking space and the appellant's statement does not confirm any restriction on occupancy. I have considered this appeal based on the information provided.
8. Within their appeal submission, the appellant provides evidence that the development has been awarded 'Cycling Friendly' by the North York Moor National Park Tourism team. The award does not change the physical character of the development. The Council has had the opportunity to comment on this information. Having regard to the Wheatcroft¹ and Holborn² principles, I am satisfied that there would be no risk of prejudice if I take this information into account. I have determined the appeal on this basis.
9. An enforcement enquiry is pending for the development. However, this is a matter for the Council and I have considered this appeal based on the refusal of permission for the development before me.

Main Issues

10. The main issues are whether the development:
 - is in a sustainable location, having regard to local and national policies which seek to reduce the need for travel by car;
 - meets the requirements of cyclists as set out in the Cycle Tourism Business Toolkit produced jointly by the former Hambleton District Council and the North York Moors National Park Authority; and
 - can provide a policy-compliant net gain in biodiversity.

Reasons

Location

11. The development consists of a shepherds hut with an outdoor covered seating area, a hot tub and fire pit within the garden of Lilac Cottage. A parking space, a separate shower and toilet building, and a septic tank are also provided within the curtilage of the cottage to support the use of the hut. The hut sits on a chassis with wheels and does not need a base. It can sleep up to two people.
12. Skewsby is defined as a Service Village in Policy S3 of the Hambleton Local Plan (2022) (HLP). The Council advised that the development does not meet the requirements of Policy EG7 of the HLP which relates to businesses in rural areas and the appellant does not dispute this. I see little reason to question this view.
13. Policy EG8 of the HLP seeks to encourage sustainable development of the visitor economy. Policy EG8 criteria (d) to (h) sets out the expectations for visitor accommodation. The Council accepts that subject to planning conditions restricting lighting and agreeing to an appropriate site management plan, the development will not unacceptably harm the character and appearance of the area or the living conditions of neighbours and will not prejudice existing land

¹ Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

- use. I see little reason to disagree with this and the development will meet criteria (d) and (e). There is also no evidence presented to suggest the development is not for holiday-letting purposes and, as such, it meets criterion (f).
14. Criterion (g) aims to ensure new proposals are accessible to local services and public utilities. In terms of local services, while the development is some distance from these and public transport options are very limited, this is not uncommon for rural locations, and they are still accessible to visitors who stay at the development.
 15. The development is not entirely car reliant as it proactively encourages visitors that choose to walk and/or cycle. Indeed, the development's recent 'Cycling Friendly' award demonstrates that other sustainable transport modes are encouraged. Even though the roads in the area are narrow, unlit and lack footpaths, this is not unusual for a rural location. There is little evidence provided to show that walking or cycling visitors would not travel along these routes to the local services. Notwithstanding this, the development provides on-site local services in the form of complimentary breakfast and the inclusion of a shop which provides a variety of foods and essential items. When considering the accommodation's modest two-person size, these would in all likelihood reduce some of the visitors' needs to travel to the more distant local services.
 16. Consequently, for the scale of accommodation provided, the development is sufficiently accessible to local services and public utilities.
 17. The final criterion (h) sets out that where a country location is proposed, it needs to be demonstrated that the development cannot be located within or adjacent to the built form of the settlement as identified in the settlement hierarchy detailed in Policy S3 of the HLP. This criterion also requires that it will be accessible by sustainable travel options.
 18. The Council advises that, due to the development being part of the cottage garden, it is considered that it does not fall within the built form of Skewsby as defined under Policy S5 of the HLP and is classed as the countryside. However, this policy details that only gardens on the edge of the settlement which relate more to the surrounding countryside than the main part of the settlement are excluded from the built form. Other than the reference to the garden location and positioning between the dwelling and a field, the Council provide little consideration of the development's relationship to the main settlement and the surrounding countryside. From my observations, due to the garden's fenced/vegetated boundaries and its extent and grass/planted form, it appears to relate more with the main part of the settlement than the open fields to the surrounding countryside. Although the Council suggests the appeal site garden was previously in agricultural use, little substantive evidence of this has been provided. From my visit, I saw little evidence to indicate the appeal site is not part of the cottage's garden. As such I am not persuaded that the site should be classed as countryside and accordingly, criterion (h) does not apply.
 19. The Council refers to two appeals³ as examples where weight was given to sustainability issues when considering holiday accommodation. However, both

³ APP/G2713/W/20/3246885 'OS Field 2558, South Moor Lane, Sowerby, North Yorkshire' and APP/G2713/W/22/3299131 'Land to the Southeast of Wellfield Farm, Whenby Lane, Whenby'.

appeals were for much larger development proposals and were in a countryside location away from nearby settlements. The accommodation they offered was also significantly larger, allowing groups of visitors including families to stay. There was no reference to any onsite services in these cases and in all likelihood, for the larger group sizes using the accommodation, visitors would have been more reliant on offsite local services and car use compared to the development before me. They are therefore not directly comparable and do not change my view regarding the acceptability of the development.

20. In conclusion, the development is in a sustainable location and seeks to reduce the need to travel by car. It does not conflict with Policies S1, S3, S5, EG7 and EG8 of the HLP.
21. The development is also consistent with paragraphs 88 and 89 of the Framework which includes supporting sustainable rural tourism, retaining and developing accessible local services, does not have unacceptable impacts on local roads, and exploits opportunities to make the location more sustainable by encouraging access on foot and by cycling.

Meets the requirements for cyclists

22. The development provides a variety of cycling maps and the appellant has confirmed that cycling facilities, including a bike stand and cleaning/maintenance tools and equipment, for up to two bikes, are available to visitors in a mobile storage tent. When required this tent is located in the covered seating area which is within the identified planning red line boundaries.
23. The 'A Cycle Tourism Business Toolkit' published by Hambleton District and the North York Moors National Park provides practical advice on how businesses can attract cyclists and benefit from the ever-increasing levels of cycle tourism. As part of the toolkit the North York Moors 'Cycling Friendly' scheme has been set up to enable businesses to become part of a collaborative network and one of the best places to visit for cyclists in the UK.
24. On the basis that the development has been awarded 'Cycling Friendly' and in conjunction with the provided cycling facilities and maps, I see little evidence to suggest that it does not sufficiently meet the requirements set out in the toolkit. Little evidence to dispute this is provided by the Council.
25. Consequently, the proposal meets the requirements for cyclists as set out in the 'Cycle Tourism Business Toolkit' and the development's location is accessible by sustainable travel options and does not conflict with Policy EG8 of the HLP.

Biodiversity net gain

26. Policy E3 of the HLP requires all development to demonstrate the delivery of a net gain for biodiversity.
27. The appellant has confirmed their understanding of the need for a biodiversity net gain scheme and advises that this would be provided within the timescale advised by the Council should planning be granted.
28. Although there are no details submitted, it is not uncommon for details of such enhancements to be secured by a planning condition. While I cannot be sure of the biodiversity which has been removed by the development, due to its small

size, the appellant's commitment to providing biodiversity net gain and the reasonable size of the appellant's land ownership around the development, I am satisfied that a net gain can be achieved.

29. On this basis, I consider that it would be appropriate, reasonable, and necessary for the details and delivery of biodiversity net gain to be secured by a planning condition.
30. The Council has provided a suggested planning condition to address this matter should the appeal be allowed, and the appellant has not disputed it.
31. Subject to securing and implementing an appropriate worded planning condition, the development will provide biodiversity net gain and will not conflict with Policy E3 of the HLP.

Other Matters

32. The appeal site is within the Howardian Hills National Landscape which has a complex system of ridges, hills and valley landforms. These are clothed with a mosaic of woodland, rolling arable fields, small-scale pastures, fens, hedges and walls, formal parkland and scattered settlements. Surrounding the appeal site, the area is characterised by the built form of the village and wooded undulating countryside and agricultural farmland. While the development is situated towards the end of the host cottage's garden, it is reasonably well-screened by trees, fencing and the surrounding buildings. Views of the development from the farmland to the west are possible but due to the development's small size, simple form and proximity to the village, it is not visually intrusive. The development increases lighting and introduces visitor use of the area. However, these are modest changes which are unlikely to be significantly different from the levels that could occur from the recreational use of the garden by the cottage's occupants. Overall, the development conserves the landscape and scenic beauty of the National Landscape.
33. Comments have been made regarding the neighbouring properties overlooking the development and adverse effects from light pollution noise and disturbance. Photographic evidence of lighting pollution was included in the submitted comments. This evidence shows a large proportion of the lighting to be located on the host cottage and existing outbuildings which are not part of the development. The Council's Environmental Health has advised that subject to a site management plan and lighting plan being in place, the development would not have a serious negative impact. It considers that these matters can be secured through a planning condition. From my observations, there is reasonable separation between neighbouring properties, and I see little reason to disagree with the Environmental Health comments. Environmental Health has suggested wording for a planning condition to deal with this matter and it includes procedures to be agreed for dealing with emissions and complaints. While I note the comments that light pollution, noise and disturbance are an ongoing issue, the site management plan has not been formally agreed or implemented and therefore the reduction effects have not been realised.
34. Concern was raised regarding litter from the development affecting adjacent land. While I appreciate that my visit is only a snapshot in time, I saw little evidence of a significant level of litter or the site being untidy. I consider that control of litter from the development can also be secured through a site management plan.

35. I appreciate a number of representations have been raised regarding concerns that visitors will generally travel by car to the development. However, as set out in my decision, the development encourages other sustainable modes of transport such as walking and cycling. There is little evidence to show that the development will not be regularly used by these types of visitors. For visitors using cars, there is a designated parking space located within the curtilage of the cottage and this minimises the need for visitors to park on the road.
36. Subject to a planning condition to control lighting from the development, the Council do not consider the development harms the character and appearance of the area. Based on its modest size I see little reason to question this view. I have also not been provided with any comments from the National Landscape Officer. However, as noted above, my assessment is that the development conserves the landscape and scenic beauty of the National Landscape.
37. In relation to comments regarding the safe use of the fire pit and the need for a Caravan Site Licence, these are issues which are not planning matters. However, Environmental Health has raised these issues in its comments and the appellant is aware of the requirements.

Conditions

38. A number of conditions have been suggested by the Council which I have assessed with regard to the tests set out in the Framework. The conditions that are included are broadly reflective of those suggested by the Council although I have amended some of the wording in the interests of precision and clarity.
39. In the interest of certainty, a condition ensuring the development is in accordance with the approved plans is included. However, I have removed the tailpiece phrase to this. A condition for a biodiversity metric assessment and the preparation of a biodiversity management plan is included to ensure biodiversity net gain is provided. I consider that a three-month timescale to complete these is reasonable. A holiday let condition is necessary to ensure it remains in use for this purpose. However, for certainty, I have amended the wording to accord with the development's description by changing the 'caravans and cabins/chalets' reference to 'shepherds hut'.
40. Furthermore, a condition for the preparation of a site management plan is included to protect the living conditions of the existing and future occupiers of the neighbouring dwellings. Within this condition, litter mitigation is included. Although this part of the condition has not been seen by the appellant, the satisfactory management and removal of litter from the development is clearly an expected requirement. As such I consider no party would be prejudiced by its inclusion. I consider that a three-month timescale to complete the site management plan is reasonable.

Conclusion

41. For the reasons given I conclude that the appeal should succeed.

J Symmons

INSPECTOR