
Appeal Decision

Site visit made on 10 April 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd May 2024

Appeal Ref: APP/Q9495/W/23/3329767

Fisherground Lodges, Eskdale, Holmrook, Cumbria CA19 1TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Bateson against the decision of Lake District National Park Authority.
 - The application Ref is 7/2023/4007.
 - The development proposed is described as: 'The conversion and change of use of redundant agricultural shed into 3 tourist accommodation units, the siting of an additional freestanding lodge, addition of new external cladding and roof finishes to the redundant shed. Associated changes to the site for car parking and landscaping'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would comply with the development plan policies relating to the provision of holiday accommodation with particular regard to the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposed development on protected species, specifically bats.

Preliminary Matters

3. The application was amended to remove the conversion of another building from the scheme. I have therefore used the amended description, taken from the appeal form, in the banner heading above.

Reasons

Policies

4. The appeal site forms part of an existing holiday lodges site, comprising of four detached timber lodges, predominantly set amongst trees. The most northerly lodge is sited in the more open part of the site, adjacent to an area of hardstanding and an existing former agricultural building, used for storage. The building is a typical modern agricultural building with a wide gable, shallow pitched roof and sizeable footprint. It is open to the north elevation and comprises of a steel frame with external walls of rendered blockwork and green

coloured corrugated sheeting. The roof is finished with grey corrugated sheeting with translucent sections providing internal light.

5. The lodges site is reasonably level although the land to the north including the La'al Ratty railway line is more steeply elevated. The site boundaries to the north of the appeal site comprise of a low concrete block wall and post and wire fence. As a result, the appeal site is easily visible from the elevated position of the railway and the public right of way that crosses it.
6. The proposal would involve the installation of a new detached lodge, close to the northern boundary of the site. It is also proposed to convert the existing former agricultural building into three independent residential units with kitchen, living and bedroom spaces.
7. Policies 11 and 18 of the Lake District National Park Local Plan (2021) (the LP) are supportive of new caravan and camping accommodation (described as glamping, lodges, huts, tree house accommodation, and pods) in such cases where, amongst other things, it improves screening, including landscape recovery, and where appropriate, reduces the massing and site density of the existing site to the benefit of the amenity of the staying visitors.
8. I note the proposal provides additional planting along the boundary of which further detail could be provided through a planning condition. However, whilst I do not have details of the proposed species, this does not appear to be substantial and is depicted as a relatively narrow hedge on the drawings. As such, it has not been evidenced that the proposed planting would be of a level that would offer screening of the site, particularly when taking into account the elevated nature of the views from the north. I am therefore not convinced that the proposal would improve screening, including landscape recovery in accordance with the policy requirement.
9. Policy 18 also makes clear that proposals for the reuse of existing buildings for short term holiday letting will only be supported in certain circumstances. These are: where the proposal would not utilise a building that is suitable for providing local needs or affordable needs housing; and would not utilise a building which is suitable for providing employment use; or form part of an agricultural or land-based rural business diversification proposal.
10. I have been provided with little evidence that the agricultural building would not be suitable for providing local needs or affordable housing. Indeed, the proposed plans demonstrate that the appeal building could be converted to residential units. Furthermore, given the close relationship of other existing dwellings with the lodge site I see no reason why the adjacent holiday lodge use would prevent the occupation of the agricultural building as a permanent dwelling. Evidence that the building could not provide an employment use is also limited. I accept that some employment uses would not be compatible with the adjacent holiday lodge site, however that is unlikely to be the case for all employment uses. On this basis, I see no reason why the appeal building would not be suitable for providing local needs or affordable needs housing or an employment use. The proposed use for holiday letting would therefore conflict with Policy 18 of the LP in that regard.
11. Policy 15 of the LP relates to the creation of new housing and does not include provision for permanent purpose-built holiday accommodation such as that proposed through conversion of the former agricultural building. Nevertheless,

Policy 02 of the LP supports the re-use of existing buildings within the open countryside for business or residential use subject to a number of criteria, including where the building contributes to the landscape character or historic environment.

12. Neither party has provided me with their assessment as to the landscape character of the area. However, based on my own impressions on the site visit, the landscape is primarily characterised by the low-lying pasture around the valley bottom of the River Esk and the craggy and partly wooded fell sides rising steeply to the north and south. Away from the cluster of dwellings forming Eskdale Green, buildings are typically located within isolated farmsteads. Buildings are typically two storeys, with a linear form, pitched roofs and narrow solid gables. Materials predominantly comprise of slate roofs, with flush pointed random stone walls, although some properties are finished with white coloured render.
13. I acknowledge that there are some modern agricultural buildings within the Eskdale landscape, and that to a degree, these are expected features within a rural landscape more generally. However, these are neither visible in such numbers, or of particular distinctiveness as to be buildings that make a discernible contribution to the landscape character of the Eskdale area. In that regard, the appeal building with its shallow roof, overtly wide gable and modern materials is not reflective of the underlying landscape character of Eskdale. Nevertheless, its simple appearance with limited openings and symmetrically arranged translucent panels in the roof, limits its prominence in views from the north.
14. The proposal would involve significant changes to the exterior of the building. The roof would be replaced with zinc standing seam sheets with solar PV panels, a metal flue and a variety of rooflights of various sizes and positions within the roof slope. The corrugated sheet and rendered walls would be replaced with timber boarding. Multiple window openings would be installed to each elevation with the open gable being fully glazed. The resulting haphazard arrangement of rooflights and glazing would emphasise the scale and incongruity of the building, significantly increasing its prominence in the elevated views along the railway line and public right of way to the north. The proposal would therefore constitute a discordant form of development that would appear out of place within the rural pasture setting to the detriment of the character of the National Park landscape.
15. For the above reasons, I therefore conclude that the proposed development would not comply with the development plan policies relating to the provision of holiday accommodation and would have a harmful effect on the character and appearance of the area. The proposal would conflict with LP Policies 02, 11, 15 and 18 described above. For the same reasons there would also be conflict with Policies 01, 05, and 06 of the LP. Together and amongst other things, these policies recognise the National Park's national significance and unique character and require development to: conserve and enhance the National Park's special qualities; achieve design excellence; and protect the National Park's spectacular landscape.
16. The proposal would not accord with provisions in the National Planning Policy Framework which requires great weight to be given to conserving and

enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.

Protected Species

17. Bats and wild birds are protected by law¹ and their presence is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. There is a statutory duty on me to have regard to the conservation of biodiversity².
18. The appellant has provided a bat, barn owl and nesting bird survey report³. This found evidence of bats roosting beneath the ridge of the appeal building. The report concluded that there was a high risk of disturbing bats and the loss of transitional or day roost sites. It states that the potential for use by bats for these purposes will be degraded by the proposed work and that there was a risk that bats could be killed or injured. The report therefore states that two bat activity (emergence) surveys must be undertaken during the active bat season.
19. In the absence of activity surveys, I cannot be certain as to the extent to which bats may be affected by the proposed development. Furthermore, if bats were affected, I cannot be certain as to what mitigation, if appropriate, may be required. In this regard, paragraph 186 of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
20. I have had regard to the appellant's suggestion of a condition to provide further surveys. However, I am mindful of Government Circular 06/2005 which establishes that it is essential that the extent that protected species may be affected by a proposal, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
21. For the above reasons, therefore, I cannot conclude that the proposal would not adversely affect protected species, specifically bats. The proposal would therefore conflict with Policy 04 of the LP which seeks to ensure that development proposals avoid negative impacts on biodiversity.
22. It would also be contrary to paragraph 180 (d) of the Framework which amongst other things, seeks to minimise impacts on, and provide net gains for, biodiversity.

Other Matters

23. The site lies within a World Heritage Site (WHS), a designated heritage asset of the highest significance. The National Park Authority reference the site's location in the WHS but has not provided any information with regard to the outstanding universal value or significance and does not explicitly identify any effects of the proposal on them in its reasons for refusal, delegated report or appeal statement. From the very limited information that is before me, I am unable to undertake a meaningful assessment in this respect. Nonetheless, as I

¹ Conservation of Habitats and Species Regulations (2017) & Wildlife and Countryside Act (1981).

² Section 40 of the Natural Environment and Rural Communities Act (2006), as amended.

³ Bat, Barn Owl and Nesting Bird Survey by Envirotech, dated 2 November 2022.

am dismissing the appeal for other reasons, as set out above, I have not pursued this matter with the parties.

24. I note the 'in principle' support from the Parish Council, notwithstanding its expressed concerns in relation to design. However, I would note that a lack of objection does not necessarily equate to a lack of harm.
25. The proposal would support the expansion of an existing business through the conversion of an existing building which would benefit the rural economy. There would also be environmental benefits from the proposal in terms of re-using an existing building, notwithstanding that it appears much of the structure would be replaced, as well as through the installation of renewable energy technologies. Whilst I have given significant weight to these benefits, these would not outweigh the harm to protected species and the character and appearance of the area, including the effect on the National Park landscape, set out above.

Conclusion

26. The proposed development would conflict with the development plan. There are no material considerations that indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR