



Appeal Decision

Site Visit made on 23 April 2024

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/V2635/W/22/3304267

**Long Acres Holiday Park, South Beach Road, Heacham, Kings Lynn
PE31 7BA**

- 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 Heacham Holidays Ltd against the decision of King's Lynn and West Norfolk Borough Council (the LPA).
 - The application Ref is 21/01064/F.
 - The development proposed is change of use of land to site 25 caravans in an extension of the park to the north east accommodate caravans that have already been permitted at the existing holiday park.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Due to an administrative error, the LPA and the appellant were not notified of my intention to undertake a site visit at the relevant time on the above date. However, since both parties were in attendance at an earlier site visit in respect of a nearby appeal, they were able to attend my site visit at the appointed time. I have considered whether any interested parties would be prejudiced by the administrative error. However, since no parties expressed an interest to the Planning Inspectorate to attend my site visit, I determined I was able to carry out the visit without prejudice to any party and did so accordingly, accompanied by the LPA and appellant.
3. The appeal was initially deemed to be suitable for determination by the written representations procedure. It was, nonetheless, subsequently linked to a number of nearby appeals by the same appellant which were deemed to be suitable to be heard by the Inquiries procedure. This appeal was thus also switched to the Inquiries procedure. However, the appeals which justified the Inquiries procedure were since withdrawn. It was therefore considered appropriate by the Planning Inspectorate to change the procedure back to written representations. The appeal proceeds by written representations accordingly.
4. Amended plans were submitted during the determination of the application. The LPA determined the application on the basis of the amended plans. I am satisfied that the amendments do not materially change the proposal before me and no persons would be prejudiced by my consideration of them. I have therefore taken the amended plans into account in my decision.

5. The LPA's decision notice refers to Policy 11 of the emerging Heacham Neighbourhood Plan. The Heacham Neighbourhood Plan 2017-2036 (2022) (the HNP) has since been adopted and forms part of the development plan. Draft Policy 11 of the HNP is now Policy 9 and I have considered the appeal on that basis.

Main Issues

6. The main issues are:

- the effect of the development on protected species; and,
- the effect of the development on the character and appearance of the surrounding area, including the impact on the Norfolk Coast National Landscape.

Reasons

Protected Species

7. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) transposes into UK law the Habitats Directive¹. It requires decision makers to undertake appropriate assessment where significant effects on a European site are likely and to only give consent if there are no adverse effects on the integrity of a European site.
8. The appeal site is within 2km of The Wash Ramsar, The Wash Special Protection Area (SPA) and The Wash and North Norfolk Coast Special Area of Conservation (SAC) European Sites. The sites are internationally important for breeding and non-breeding birds and their wetland habitats in coastal areas of Norfolk and Lincolnshire.
9. The development could therefore have potential likely significant effects on the qualifying features of the European Sites that would undermine their conservation objectives, either alone or in combination with other plans or projects. A significant effect is one that would undermine the conservation objectives of a European Site.
10. The precautionary principle applies on the basis that it can be assumed an effect would be significant, even where it is unclear, unless there is objective evidence to the contrary.
11. The appellant's HRA accepts that there could be indirect impacts upon the European Sites from recreational pressures from increased visitors. Whilst the appeal site would accommodate caravans which could be lawfully sited on the existing park, it is proposed to site larger caravans which could potentially house more people. Nonetheless, I note that the total number of caravans across the entire site would fall below the lawful number of 155 which could be accommodated on the existing caravan park.
12. As a result, there would not be significant effects on the qualifying features of the European Sites through any additional pressure from the recreational activities of future occupiers of the caravans.

¹ Council Directive 94/43/EEC 1992

13. Nonetheless, one of the qualifying features of The Wash SPA and Ramsar is the Eurasian Curlew. Such species can be dependent on land outside of the designated boundaries of the European Sites. In this instance, the surveys which informed the Preliminary Ecological Appraisal May 2021 which accompanied the application identified that 15 Curlew were present on the adjacent paddocks.
14. On that basis, it can be concluded that the appeal site is functionally linked land, i.e. land which is outside of a designated site which is considered to be critical to, or necessary for, the ecological or behavioural functions of a qualifying feature for which a SAC, SPA or Ramsar site has been designated. It is necessary for the Competent Authority to consider the importance of functionally linked land to ensure the Conservation Objectives of the European Sites are not compromised.
15. During consideration of the application, the Royal Society for the Protection of Birds (RSPB) objected on the basis that it did not consider that the Preliminary Ecological Appraisal provided sufficient information to determine whether the likelihood of significant effects on protected areas and species can be ruled out. In particular, the RSPB noted that fact that 15 Curlews were identified in one visit during the winter is significant and would necessitate at least two years worth of survey data to enable sufficient data in respect of the species to be gathered. Subsequent evidence was provided by the RSPB which showed that a tracked Curlew had used the appeal site. In February 2022, Natural England (NE) subsequently indicated that further information was required to establish if the proposal would or would not lead to potential impacts on foraging curlew and functionally linked land. NE requested further information to determine the significance of the impacts and the scope for mitigation through an updated Habitats Regulations Assessment.
16. Subsequently, a Phase 2 Bird Survey was prepared in July 2022. Surveys were carried out once a month between February 2022 and July 2022. The surveys indicate that no Curlews were seen on the appeal site throughout. However, a peak of 74 Curlews in February 2022 were noted on the land to the west on the opposite side of the caravan park. Numbers declined into the spring and summer months. The survey hypothesises that is due to the higher crop in the field.
17. The survey then concludes that given the current use of the appeal site by dog walkers, as recreational land for people from the holiday parks and with equestrian use of surrounding fields, Curlews would be unlikely to use the site as functionally linked land.
18. Natural England (NE) has made representations to this appeal in October 2022 maintaining its position that further surveys are required to inform an updated Habitats Regulations Assessment is necessary.
19. Subsequently, further Phase 2 Bird Surveys dated November 2022 were submitted to this appeal. They covered an additional four surveys in August, September, October and November 2022. A peak of 131 Curlews were noted in the same field to the west in November 2022. Furthermore, in an increase in scope from the previous surveys, six Curlews were observed on land to the south-west of the appeal site and caravan park in August 2022. Curlews were further observed to be navigating between fields adjacent to the appeal site.

20. Indeed, 10 Curlews were recorded flying over the appeal site. The surveys indicate that they did not land or show interest in doing so. Nevertheless, the updated surveys demonstrate a greater level of activity of Curlews in and around the appeal site, included traversing it in multiple directions.
21. As a consequence, whilst the surveys have not found direct activity from Curlews on the appeal site, they do not, however, cover the two year period of survey and monitoring recommended by the RPSB and thus endorsed by NE. Moreover, it is noted that the surveys do not cover a complete calendar year, beginning in February and ending in November. Thus, to my mind, in order to sufficiently understand the functional link between the land and the European Sites in terms of its use by Curlew, the full two years of surveys recommended by the RPSB and NE would be necessary to allow the full assessment of the likely significant effects on the qualifying feature.
22. The appeal site comprises an area of semi-improved grassland bordered by hedgerows, scrub and wire fences. The development will involve the removal of hedgerows on the western boundary to facilitate the access road from the existing caravan park into the appeal site. It would also result in the loss of a significant cover of grassland as the hardstanding is created throughout the site, as well as the cover of 25 caravans. This has the potential to remove nesting and foraging opportunities for the Curlew.
23. Since the evidence as to whether curlews use the appeal site is unclear, the precautionary principle applies and it can be assumed that the effect would be significant. As a result, in the absence of sufficient evidence to the contrary, I am led to conclude that the development will likely have significant effects on a qualifying feature of the European Sites that would undermine their conservation objectives.
24. The appellant indicates that monitoring could be continued and the data re-assessed after a 12 month period. However, no surveys have been carried out since November 2022. Moreover, granting permission subject to a condition for re-assessment and continued monitoring would not avoid potential adverse effects, since the development would be in place and any loss of habitat or effect on the qualifying feature would have already occurred.
25. The appellant also indicates that the provision of additional bird nesting and roosting habitat, including bird boxes would mitigate against adverse effects. However, the RSPB state that bird boxes would not be suitable for the Curlew. Moreover, little detail on the proposed bird nesting and roosting habitat is before me. The HRA states that management of undeveloped areas of land would be carried out but it is not clear exactly what that management would entail.
26. I am not therefore satisfied that suitable mitigation would be put in place to avoid adverse effects on the qualifying features of the European Sites.
27. The Habitat Regulations require me to consider whether there are any alternative solutions that would have a lesser effect on the qualifying features of the European Sites. However, there are no such solutions before me.
28. It is also necessary to assess whether there are any imperative reasons of overriding public interest relating to human health, public safety or benefits of primary importance to the environment arising from the development.

However, I find that there are no such imperative reasons deriving from the provision of 25 caravans which would justify the development.

29. I conclude, therefore, that it has not been demonstrated that the development would not result in adverse effects on the integrity of the European Sites. Consequently, the development would conflict with Policies CS01 and CS06 of the Kings Lynn and West Norfolk Local Development Framework Core Strategy 2011 (the CS) which state that the LPA will seek to protect and enhance environmental assets and that development should protect wildlife. The development would also conflict with CS Policies CS07 and CS10 which seek to promote visitor access in coastal areas whilst considering the necessary measures to meet the requirements of the Habitat Regulations and protect the integrity of the coastal European Sites, and that small scale tourism opportunities will be supported in rural areas that sustain the local economy, providing these are in sustainable locations and are not detrimental to the natural environment. There would also be conflict with CS Policy CS12 which states that development should seek to avoid, mitigate or compensate for any adverse impacts on biodiversity.
30. In addition to the policies of the CS, the development would also conflict with Policy DM15 of the Kings Lynn and West Norfolk Site Allocations and Development Management Policies Plan 2016 (the DMP) which states that proposals for uses adversely affecting European Sites will be refused permission. There would also be conflict with Policy 9 of the HNP which states that holiday accommodation beyond existing defined holiday areas will only be supported where it does not have an unacceptable impact on green infrastructure.

Character and Appearance

31. The appeal site comprises a grassed field around 1.7ha in size to the east of Long Acres Holiday Park. The holiday park is a narrow, linear parcel of land on which several caravans are sited, along with an amenity block and roads. The land lies south of the main built-up area of the settlement of Heacham. It is bound by a dense hedgerow to the north, with open grassland to the south and east.
32. The site is located closed to the boundary of the Norfolk Coast National Landscape (formerly AONB), within the Fens National Character Area (no 46) and adjacent to the North West Norfolk National Character Area (No 76).
33. The wider landscape is predominately characterised as a flat and open, wide expanse of low-lying wetlands. Open fields bound by a network of drains, arable land uses and scattered settlement patterns dominate the character. The settlement of Heacham lies close to the predominately flat, low lying coastal marsh fringes on the eastern edge of The Wash. Caravan parks feature strongly in the landscape here. Several parks combine to infill the land between the coast and the built-up area of Heacham. It is a pattern repeated in Hunstanton to the north, and to a lesser extent, Snettisham to the south.
34. To the immediate south of Heacham, the landscape is reflective of the wider landscape character – open fields, hedgerows, scattered farmsteads. Nonetheless, the sewage works to the immediate south of the appeal site introduce a significant element of built form, albeit dense planting largely screens it from view.

35. As a grassed field only bound by any significant planting on its northern fringe, the appeal site makes a positive contribution to the character of the open landscape to the south of Heacham. Visually, its open character can be appreciated from many vantage points, including from Fenway. Nonetheless, where it can be seen, it is largely seen as the immediate foreground to the existing caravan park and the buildings which mark the southern edge of the settlement.
36. It is proposed to extend the existing caravan park eastwards into the appeal site. The land would accommodate 25 caravans. The proposal would increase the envelope of built form, extending the site into the open countryside and eroding the contribution the site makes to the open character of the landscape on the south side.
37. However, the proposal would introduce caravans into the landscape which are typical of the surrounding area. Whilst the land use would change from grassland to caravan park, such a use would not be out of character with the surrounding area.
38. Moreover, the proposal would not increase the overall number of caravans allowed on the site. The site is currently permitted to have a maximum of 155 caravans on the land, however, at present only 108 are sited. Furthermore, whilst the caravan site would be extended eastwards, it would not extend towards the southern end of the park. Additionally, it would not extend any further eastwards than the sewage works to the south. Also, whilst separated from the properties on Veltshaw Close by a field, it would nevertheless sit close to the southern extent of the settlement of Heacham and indeed, adjacent to the settlement boundary.
39. No trees are proposed to be removed as part of the development. Indeed, it is proposed to plant further trees and shrubs, which would be in keeping with the character of the surrounding area. To that end, I am satisfied it would not result in a harmful encroachment of built form into the surrounding landscape.
40. The development would be visible in both short, medium and long range views, particularly from the south. However, it would be seen in the context of the existing caravan park. Furthermore, the caravans and associated infrastructure would be relatively low in height and thus, much like the congregation of caravans within the wider landscape, the visual impact would be reduced compared to the typical two-storey built form of Heacham. Moreover, the caravans would be seen with the backdrop of the buildings on the south side of Folgate Road which demarcate the southern extent of Heacham. To that end, it would not appear as an isolated or intrusive ribbon of development in the open countryside.
41. Furthermore, it is proposed to carry out a tree and shrub planting scheme which would further reduce visibility of the development throughout the landscape. This could be the subject of a suitably worded condition. As a result, I find the development would not appear as an unduly obtrusive or incongruous feature in the landscape.
42. The LPA indicates that the siting of larger caravans would have the potential to attract more people. However, it does not set out what the effect additional occupation of the site would have on the character or appearance of the area. It seems to me that, even if the proposal were to attract more people to the

site than is presently the case, the increase in numbers would not be so great that it would have a tangible effect on the character of the area.

43. I conclude, therefore, that the development would not have a harmful effect on the character and appearance of the area, including upon the Norfolk Coast National Landscape. As a consequence, it would comply with CS Policies CS1, CS06 and CS07 insofar as they state that the LPA will seek to protect the countryside beyond the villages for its intrinsic character and beauty, that development should maintain local character and protect the countryside for its intrinsic character and beauty, and that new development should enhance the distinctive local character of coastal areas. There would also be compliance with CS Policies CS10 and CS12 insofar as they state that new tourism accommodation will be permitted provided it is located in or adjacent villages or towns and will not be detrimental to the landscape, and that proposals to protect and enhance landscape character will be supported and that developments should demonstrate that they will protect, conserve and where possible enhance landscape setting.
44. In addition, the development would comply with DMP Policies DM2, DM11 and DM15 insofar as they state that tourism facilities will be supported outside of development boundaries in accordance with CS Policy CS10, that extensions to existing holiday accommodation will not normally be permitted unless it demonstrates a high standard of design, and that the scale, height, massing, materials and layout of a development should respond sensitively and sympathetically to the local setting.
45. There would also be compliance with Policy 9 of the HNP insofar as it states that holiday accommodation beyond existing defined holiday areas will only be supported where they minimise any visual impact on the village and do not diminish the physical separation between Heacham and Hunstanton.

Other Matters

46. I note that the proposal would have tourism benefits in terms of providing a higher quality of visitor accommodation in the area and thus attracting visitor spending in the local economy. Paragraph 88 of the National Planning Policy Framework states that planning decision should enable sustainable rural tourism and leisure developments which respect the character of the countryside and paragraph 89 states that sites should be physically well-related to existing settlements. Nonetheless, whilst I afford such benefits significant weight, they would not outweigh the substantial harm I have identified to protected species.
47. The appellant draws my attention to the recent grant of planning permission for an extension to an existing caravan park to the east of Heacham². Whilst I acknowledge there are similarities between the two sites, there are also differences. For example, the site is further away from the European Sites than the appeal site. Moreover, the full details of that application, including any HRA, are not before me. In any event, I have considered this appeal on its own merits and the evidence before me. I thus afford the Meadows Caravan Park permission little weight.

² LPA Ref: 21/01877/FM

48. I note the relatively sustainable location of the appeal site, and that no significant harm would arise to the living conditions of nearby residents. I also note that, whilst part of the site lies within Flood Zone 2 and 3a, the caravans are proposed in that part of the site which lies in Flood Zone 1 and thus it would not increase the risk of flooding. However, the lack of harm in those respects would not outweigh the harm in respect of protected species.

Conclusion

49. Whilst I have found that the development would not have a harmful effect on the character and appearance of the area, I have found it has not been demonstrated that the development would not result in adverse effects on the integrity of the European Sites. That is the prevailing consideration and I conclude that the proposal would conflict with the development plan as a whole. For the reasons given above I conclude that the appeal should be dismissed.

J Whitfield

INSPECTOR