

Appeal Decision

Site visit made on 28 August 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal Ref: APP/E2001/W/24/3342373

Land on the west side of Black Tup Lane, Arnold, Hull HU11 5JA

- 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 The Bay Horse against the decision of East Riding of Yorkshire Council.
 - The application Ref is 23/01473/PLF.
 - The development proposed is the siting 12 static caravans and the change of use of the land to a caravan site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the planning application was determined, a revised National Planning Policy Framework ("the Framework") has been published. This has not raised any new matters which are determinative to the outcome of this appeal. However, I have referenced the revised paragraph numbers where necessary.
3. The postcode of the appeal site on the planning application form differs from the postcode on the Council's decision notice and other documentation. Neither postcode appears to encompass the appeal site, however, the postcode within the Council's decision notice is closest. Therefore, I have included it within the banner heading above.
4. The Council, in their appeal statement, has clarified the stage at which their Local Plan Update has reached. As they are awaiting an interim statement from the Inspector, public consultation would be required on any potential modifications, and there are unresolved objections to some policies, the Council consider the weight to be given to the emerging policies ranges from none to limited. The appellant has not disputed these findings in their final comments. Accordingly, I agree with the Council's findings on this matter.
5. The appellant submitted various technical reports and a draft Unilateral Undertaking ("UU") with their Appeal Statement of Case. It is unclear why a Highway Statement and an Ecology Report were submitted as these matters were not disputed by the Council. However, the Landscape & Visual Assessment, Lighting Report and Noise Assessment were in direct response

to the Council's reasons for refusal. The Council and interested parties have had an opportunity to comment upon these documents and therefore, have not been prejudiced by their inclusion. I have therefore accepted them and determined the appeal on this basis.

6. The submitted UU pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) is unsigned and undated. This seeks to tie the proposal to the adjacent public house. I will return to this in due course.

Main Issues

7. The main issues are the effect of the proposal on:
 - a) the character and appearance of the surrounding area; and
 - b) the living conditions of the occupiers of neighbouring properties, with reference to noise and disturbance.

Reasons

Character and Appearance

8. Arnold comprises a relatively small linear settlement of approximately 30 dwellings that occupy the eastern side of Arnold Lane West/Black Tup Lane and terminates at the Bay Horse public house to the south and the A165 to the north. The settlement is predominantly residential. Within the grounds of the public house are seven static caravans used for holiday accommodation. The western side of the road predominantly comprises open fields and has a rural character and appearance.
9. The appeal site is on the western side of Black Tup Lane, opposite the public house, within the countryside. It comprises the eastern-most part of an agricultural field that is relatively flat and is bounded by hedgerows to the north, south and east. The western boundary is open to the remainder of the field. Fields surround the appeal site to the north and west, while a car/van dealership with a detached dwelling and an agricultural field bound the site to the south, with open fields beyond.
10. The appeal proposal would result in the change of use of part of the agricultural field to a caravan site for the siting of 12 static caravans. The static caravans would be densely positioned around the edges of the site separated from each other by two parking spaces. There would be a circular internal access road with a central amenity space, and a further amenity space and an attenuation pond would be to the west.
11. The proposal of 12 static caravans, together with the existing 7 static caravans at the public house, would cumulatively result in a significant amount of holiday accommodation when compared to the relatively small size of Arnold. Consequently, the scale and cumulative impact of the proposal would adversely affect the settlement's character.
12. I have been directed to an appeal decision¹ for 150 holiday lodges outside the development limit of a small village comprising approximately 68 houses that the appellant asserts the Inspector found the number of units proposed

¹ Appeal Ref: APP/E2001/W/16/3151708

would not in itself have a harmful impact on the village. However, I have not been provided with full details of that development and therefore I am unable to determine whether it is directly comparable to this appeal. In any event, I must determine each case on its own merits.

13. The proposal would be on the opposite side of the road to the built-up settlement of Arnold. It would therefore affect its linear character and appearance, and the rural setting of the settlement. The proposal could enhance and maintain the existing hedgerows that are a particular feature of the Landscape Character Type ("LCT"). However, it would also subdivide an existing agricultural field, thereby harming the existing field pattern which makes an important contribution to the character of the LCT, and which should be maintained and where possible reinforced.
14. The surrounding roads are unlit and therefore lighting is limited to internal lighting from buildings and external lighting of the public house and its car park, the existing static caravans and the car/van dealership, the majority of which are on the eastern side of the settlement's roads. The Short Form Obtrusive Light Report² ("SFOLP") indicates that the appeal site and surrounding area has a "Rural-Low District Brightness".
15. I accept that an external lighting scheme could be designed to minimise its effect on sky glow. However, the SFOLP does not consider the effect of interior lighting from the proposed static caravans on the surrounding area. Furthermore, the introduction of both interior and exterior lighting to an existing undeveloped field would harm the largely undeveloped character of the western side of Arnold Lane West and Black Tup Lane.
16. I acknowledge that the proposal would be adjacent to an existing car/van dealership that does not follow the linear form of Arnold. However, I am unaware of the planning history surrounding this use or indeed if planning permission was granted. Furthermore, the existing car/van dealership appears alien to the rural character of this side of the settlement and any additional development would exacerbate this harmful impact.
17. From my site visit, it was clear that the proposal would be visible in views from Black Tup Lane adjacent to the car/van dealership and close to the proposed entrance, from Carr Lane to the south of the appeal site, and from Arnold Lane West. The location and width of the access would exacerbate the prominence of the proposal from the surrounding roads. It would also be highly visible from the windows of the public house and the nearest dwellings on the opposite side of the road.
18. My findings are reinforced by Key Views B, C, D, E and Photo 2 of the appellant's Landscape & Visual Impact Assessment³ ("LVIA") which indicate that the development would be visible above and through the existing boundary hedgerows, particularly in the winter months when they are not in leaf. Consequently, I do not agree with the LVIA's conclusions that the proposal would have negligible, minor or minor/moderate visual impact on receptors during construction and on completion.

² Short Form Obtrusive Light Report, P0364-REP001-11032024A, produced by Light PaD

³ Landscape & Visual Impact Assessment, produced by Blue Hill Landscape Design

19. Landscape mitigation is proposed by the LVIA and detailed on the Landscape Strategy (Drawing no 5066/4 Rev A). However, it differs from the landscaping shown on the Proposed Site Plan (Drawing no 06 Rev A). Furthermore, the Landscape Strategy drawing does not appear to correspond with all the mitigation measures detailed at 6.0 of the LVIA and lacks detailed information such as the height at which the hedgerows would be maintained. Consequently, it is unclear which mitigation measures are proposed and whether the LVIA's conclusions in respect of the residual impacts of the proposal after 15 years are accurate.
20. Even if a landscaping scheme was agreed between the parties, views of the proposal would still be gained through the access when travelling along the surrounding roads, from the windows of neighbouring buildings, and particularly during the winter months when the trees and hedgerows are not in leaf. Consequently, I do not accept that there would be no, minor or negligible impact on visual receptors after 15 years. Furthermore, even if additional landscaping could screen the proposal to an acceptable degree, it would not overcome the proposal's harm to the linear character of the existing settlement or the existing field pattern.
21. In reference to the first main issue, the proposal would harm the character and appearance of the surrounding area. It would conflict with Policies S4(a) and (c), EC2 and ENV1(b) of the East Riding Local Plan 2012-2029 Strategy Document, adopted 2016 ("LP") which, amongst other things, seek to support tourism development where proposals respect the intrinsic character of their surroundings, where their scale and cumulative impact is appropriate for its location, and developments have regard to the specific characteristics of a site's wider context and the character of the surrounding area.
22. It would also conflict with paragraphs 88(c), 85, 135(a) and (c), and 180(b) of the Framework which seek to ensure that sustainable rural tourism and leisure developments respect the character of the countryside; are sensitive to their surroundings; recognise the intrinsic character and beauty of the countryside; add to the overall quality of the area, not just for the short term but over the lifetime of the development; and are sympathetic to local character, including the surrounding built environment and landscape setting.

Living Conditions

23. During my site visit I walked around the surrounding area. I did not witness any traffic on the surrounding roads, and even though the public house was open and there were people occupying the existing static caravans, the surrounding area was quiet and tranquil. Although I realise this was a snapshot in time, interested parties have made similar statements regarding the tranquillity of the environment which is supported by the results of a Noise Impact Assessment⁴ ("NIA"). Consequently, quietness and tranquillity are key attributes of the surrounding area.
24. Dwellings are in proximity of the appeal site on the opposite side of Arnold Lane West and a single dwelling is located on the adjacent car/van

⁴ Section 3 of the Noise Impact Assessment produced by Environmental Noise Solutions Ltd, dated 28 March 2024

dealership site. Consequently, the living conditions of the occupiers of these dwellings have the potential to be affected by noise and disturbance.

25. Each of the static caravans would have an outside deck and would be arranged around a central grass/amenity green space. Accordingly, these features would encourage users to spend time outside. Furthermore, people on holiday tend to have a carefree attitude and would not have a sense of accountability to the occupiers of neighbouring properties.
26. There would be no on-site manager or warden to oversee guests and their activities. The appellant asserts that the proposal would be linked to the public house. However, I am unaware whether the public house would be directly responsible for the management of the proposal, particularly as the existing static caravans are operated by a third party.
27. Consequently, the comings and goings, noise levels and general disturbance caused by the large number of guests that could occupy the 12 static caravans would likely be of an intensity that would harm the quietness and tranquillity of the surrounding area and the living conditions of the occupiers of neighbouring properties.
28. The NIA recommends a Noise Management Plan ("NMP") to control noise emissions from the proposal to ensure the living conditions of the occupiers of neighbouring properties would not be adversely affected. Various mitigation measures are suggested and an example NMP and "External Site Rules" for the existing static caravans have been provided. However, both the NIA and NMP only consider external noise sources and not the effect of noise from within the static caravans with windows and doors open, which is likely to occur during the summer months.
29. Even if the proposal was subject to an NMP, I am not convinced that rule breaking would not occur, or that any rule breaking could be addressed before the living conditions of the occupiers of neighbouring properties would be affected, particularly due to the absence of an on-site manager/warden.
30. I acknowledge that the Council's Environmental Health Officer raised no objections to the proposal in reference to noise and disturbance. However, for the reasons above, I do not concur with their views.
31. The seven static caravans used for holiday accommodation at the public house have outside decks and I am not aware of any noise complaints regarding this use. However, the existing static caravans occupy a much smaller site area with the amenity space shared with the public house. Therefore, noise and disturbance from outside activities is likely to be significantly less than the proposal.
32. Furthermore, the existing static caravans are sited in proximity of the public house which provides a degree of natural surveillance, even if it is not directly responsible for their management. Therefore, the existing holiday accommodation is not directly comparable to the appeal proposal.
33. In reference to the second main issue, the proposal would harm the living conditions of the occupiers of neighbouring properties, with reference to noise and disturbance. It would therefore be contrary to Policy ENV1(B4) of the LP which requires developments to have regard to the amenity of

existing properties. It would also conflict with paragraph 135(f) of the Framework that requires developments to create places with a high standard of amenity for existing users.

Other Matters

34. There would be additional benefits from the scheme through a net gain in biodiversity with a 10.87% change in hedgerow units and 22.54% change in habitat biodiversity units. I therefore attach this benefit moderate weight.
35. Occupiers of the holiday accommodation would likely spend money in the adjacent pub and the convenience shop in the next village, as well as on other services and facilities in the surrounding area. It would also create long-term employment opportunities via the servicing and maintenance of the static caravans and the outside areas. There would also be some temporary economic benefits associated with the construction of the holiday accommodation. However, these benefits are tempered somewhat due to the number of units proposed.
36. The proposal would meet a need identified within the Council's Tourism Strategy for additional small-scale tourist developments in the appeal proposal's sub-area. However, I am not convinced from the information before me that the need could not be addressed by a less harmful development elsewhere.
37. The appellant asserts that the proposal would provide an additional income stream to the public house thereby supporting its viability. However, limited information has been provided to ascertain the financial viability of the public house. Furthermore, the submitted UU is in draft form is undated and is not signed.
38. The Procedural Guide: Planning appeals – England requires the appellant, in cases such as this appeal, to submit an executed and certified copy of any planning obligation no later than 7 weeks from the start date. It explains that the Inspector will not delay the issue of a decision to wait for an obligation to be executed unless there are very exceptional circumstances. I am not aware of any such circumstances in this case. Consequently, I do not have a mechanism before me to ensure the proposal would remain tied to the public house so that the economic benefits would ensue. Even if a signed and dated UU was provided, it would not overcome the concerns I have raised in respect of the main issues.
39. Against these benefits is the harm I have found to the character and appearance of the surrounding area and the living conditions of the occupiers of neighbouring properties, for which I attach substantial weight. Consequently, the material considerations would not outweigh my findings in respect of the main issues.
40. The absence of a representation from the nearest neighbour to the appeal site does not infer no objection to the proposal. Furthermore, I must determine the proposal against the development plan. The proposal's lack of harm to highway safety, flood risk, foul and surface water drainage, and nature conservation are neutral matters.

Conclusion

41. For the reasons set out above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR