



Appeal Decision

Site visit made on 27 November 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2024

Appeal Ref: APP/E2001/W/24/3346695

Land West of Cherry Lane Garden Centre, Hull Bridge Road, Tickton, Beverley, East Riding of Yorkshire HU17 9RS

- 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 A&S Homes Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref is 23/02306/PLF.
 - The development proposed is the erection of coffee shop/drive-thru unit with associated access, electric vehicle charging facility, landscaping and drainage works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording, matching that used on the Decision Notice has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. However, as both parties have used this description in their submissions, and it is a much clearer description of the development proposed, I have used it in my heading above.

Main Issues

3. The main issues are
 - whether or not there is an established need for the proposal,
 - the effect of the proposal on character of the area,
 - whether or not the proposal is acceptable with regard to flood risk, and
 - the effect of the proposal on highway safety.

Reasons

Need

4. Policy S8 of the East Riding Local Plan 2012-2029 Strategy Document, adopted April 2016 (the ERLP) seeks to support roadside facilities essential to support the safety and welfare of motorists where they are of an appropriate scale and meet an identified need.

5. Given that clear policy requirement, I consider that it is reasonable, as part of demonstrating that need, to demonstrate the need for the proposal to be in the location chosen.
6. In terms of the national picture, I accept that there is a need for electric vehicle charging (EVC) infrastructure. However, the level of need for this per head of population (using this as a proxy measure for number of vehicles) is not the same as would be required for non-electric vehicles. As the appellant points out, some 75% of current EVC takes place at home and even accepting the need for some en-route charging, there is little in the evidence before me, beyond national statements, which compellingly demonstrates that there is an identified need for this proposal in this location.
7. Indeed, I find that some of the evidence before me is contradictory. In making their case on highway safety (below), the appellant relies on pass-by trips making up the majority of users of the site, with very little actual trip generation arising from the site. However, the appellant also relies on a calculation of the number of EVC sites compared to the local population as a demonstration of need.
8. I do not find that the claim that the site is necessary to serve the east-west routes, supporting the tourist economy and in particular, those accessing coastal resorts, is borne out by the evidence before me. Similarly, the suggestion that a number of EVC operators are interested in the site, which might also serve as demonstration of need, is limited to a statement to that effect.
9. Taking all of that together, I do not find that on the basis of the evidence before me, there is an established need for this proposal in this location, contrary to Policies S1, S2 and S8 of the ERLP.

Character

10. The appeal site is defined as countryside in the ERLP, despite the relatively recent housing between it and Beverley, the more established housing on the opposite side of the road and the large garden centre adjacent to it. Travelling east there is an obvious gap between Beverley and Tickton, which owing to the relatively open and low density development on the north side of the road, gives the site and its immediate surroundings, particularly on the northern side of the road a very rural and open character. This persists despite the relatively recent housing close to the site and the visually well-contained garden centre.
11. Travelling west, towards Beverley, the site in particular, the road and its surroundings, particularly on the northern side have a rural and open character, which again, is unaffected by the development around it.
12. I accept that roadside facilities of this broad type, providing fuel for transport and refreshments for travellers are not unusual on the edge of towns, or along arterial routes. I also accept that some development has a functional need to be in a particular location.

13. However, the evidence before me in this appeal does not persuade me that the appeal site is that location. In contrast to many other similar roadside facilities in the area, the appeal proposal is not on or very close to a junction, it is not directly connected to other facilities and services, and would appear somewhat incongruous in a largely rural, minor settlement, particularly on the more open and rural side of the road.
14. It is stated that the close availability of electricity supply infrastructure is another factor which requires the proposal to be on this site. However, whilst the availability of the drive-thru element has been assessed when evaluating other sites, the availability of electricity supply has not been. Further, there is nothing in the proposal, beyond a simple statement to that effect, that such a supply is available at this site.
15. Taking all of that together, I find that as the appeal site lies within the countryside, despite the presence of other development nearby, it would have a harmful effect on the character of the area, introducing a development with an incongruous and therefore harmful appearance. For this reason, the proposal does not benefit from the support in Policy EC1 for development outside of settlement limits even before the failure to demonstrate a functional need for it to be in this location is considered. The proposal would therefore conflict with Policies EC1, S8, ENV1 and ENV2 of the ERLP.

Flood risk

16. As the appeal site is within both Flood Zone 2 and Flood Zone 3a a sequential test (ST) is required by both Policy ENV6 of the ERLP and the National Planning Policy Framework (the Framework), in order to steer new development to areas with the lowest risk of flooding from any source.
17. Although the appellant has submitted an ST, and then updated it for the appeal, the Council remains dissatisfied with it. In my assessment of them, the submitted STs do not make clear the relative level of flood risk on the assessed sites compared to the appeal site, how much, if any, of the site area is available within them where they are already subject to planning permission or partly developed. In short, the STs do not contain sufficient information or detail to allow proper assessment of the sites within them relative to the appeal site.
18. Given the Planning Practice Guidance (the PPG) definition of reasonably available, and the guidance around sites which are larger than required, I do not consider that either the original, or updated, STs make clear that there are no reasonably available alternative sites. In particular, I do not find that the commentary in the ST is sufficient to justify the discounting of the sites within it, even with the additional commentary in the January 2024 updated ST.
19. I do not consider that the Council has been inconsistent, overly prescriptive, or sought to employ the Flood Risk Sequential and Exception Test Supplementary Planning Document in an obstructive way. Instead, the Council has taken a precautionary approach which I find to be wholly based in national and adopted local policy. Their approach and conclusions seem reasonable, and I find no reason to disagree, particularly in light of my conclusions on the level of detail in the STs.

20. In addition, the appellant has not addressed the detailed objections of the Environment Agency to their Flood Risk Assessment (FRA). Whilst I accept that the FRA does assess extreme flood events, I am unclear as to exactly how the water entry strategy, detailed in the FRA results in no requirement for flood compensatory storage, even allowing for the detail of that strategy, as it is also proposed to have an elevated finished floor level.
21. Taking all of that together, on the basis of the evidence before me, I do not find that the proposal is acceptable with regard to flood risk. It would therefore conflict with Policy ENV6 of the ERLP as well as guidance in the PPG and national policy on flood risk in the Framework.

Highway safety

22. As I have set out above, in relation to need, I find that there is a degree of contradiction in the evidence before me, as I am asked to accept that most trips to the site would be pass-by trips, leading to very little traffic generation, but at the same time, being given evidence of local population related public EVC need to justify the proposal. If the site were to serve that local need, then it would be trip-generating, not largely relying on pass-by trips. If that were to be the case, then the effect on highway safety and the local highway network would be different to as described in the technical evidence.
23. I do not find that the similar proposals set out by the appellant are in fact so similar to that before me here that they justify the pass-by rates used, or the conclusions drawn from them. I agree with the Council that the evidence in the Highways Technical Note is not compelling as to the number of pass-by trips relating to a proposal of this nature. As the Council note, the only EVC site not connected with another use did not give a pass-by figure. I also note that the majority of the examples in the Technical Note are not based on evidence, with only two of them including surveys.
24. It may be that suitable TRICS data for a land use or category as proposed here is not yet available, but as the EVC site and coffee shop will act as separate entities, I remain unconvinced by the evidence provided on trip generation or pass-by trips. I do not question that the industry standard assumptions are robust, where they are used in relation to their normal use, that is, in relation to the coffee shop. However, their extrapolation to the EVC site and the overall combined site is less well reasoned and robust. Given the above, I cannot be certain that it is appropriate to rely on an 80% pass-by figure for this site.
25. As, on the evidence provided, the level of pass-by or new-trip generation cannot be accurately quantified, I cannot be sure that the effect of the proposal on highway safety or the local highway network would be acceptable. Combined with third-party representations on how busy the road is, my own observations on site, I consider that the evidence does not support the proposal at this time. The proposal would therefore conflict with Policy EC4 of the ERLP as well as guidance in the Framework.

Conclusion

26. There are benefits associated with the proposal; it could deliver on national ambitions to increase the amount of public EVC infrastructure, and it would have direct economic benefits as a result of job-creation. However, I have found development plan conflict with respect to all of the main issues. Therefore, whilst there are material considerations which weigh in favour of the proposal, they are not of sufficient weight to indicate that a decision be taken other than in accordance with the development plan.
27. The appeal should therefore be dismissed.

S Dean

INSPECTOR