



Appeal Decision

Site visit made on 8 April 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2025

Appeal Ref: APP/F3545/W/24/3346060

Land North Side of Water Lane, Little Whelnetham, Suffolk

- 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 Karl Shelley against the decision of West Suffolk Council.
 - The application Ref is DC/22/1587/FUL.
 - The development proposed is the change of use from agricultural land for the siting of five holiday units (Class C1), new access road and parking.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use from agricultural land for the siting of five holiday units (Class C1), new access road and parking at land north side of Water Lane, Little Whelnetham, Suffolk in accordance with the terms of the application, Ref DC/22/1587/FUL, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Karl Shelley against West Suffolk Council. This application is the subject of a separate decision.

Preliminary Matters

3. Some elements of the proposal have been undertaken, including an access track and parking area which appear to broadly accord with the submitted plans. However, as the development at the site is not in its finished state, for clarity, I have determined the appeal on the basis of the submitted plans.
4. A revised layout has been submitted that reduces the scale of the proposal by removing the northern most straw bale hut shown on Proposed Block Plan (ref 30-005). The nature and extent of the revised layout does not fundamentally alter the appeal proposal and was presented to the Council prior to the determination of the application. I have therefore accepted Proposed Block Plan (ref 30-005 Rev A). As a consequence, I have determined the appeal on the basis of five holiday let units and amended the description of development in my decision to reflect the development subject of the appeal.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of the properties known as Langdale and Borrowdale, with regard to noise and disturbance.

Reasons

6. The appeal site is located within the countryside with inherently tranquil qualities and has shared boundaries with the properties known as Langdale and Borrowdale. This creates a sensitive relationship. Utilising the peaceful and quiet character of the area and the natural surroundings the proposed rural tourism enterprise would offer wellness retreats with activities such as yoga, walking and guided meditation.
7. I have considered the original proposal for six holiday let units. However, that scheme includes the siting of a straw bale hut proximate to the neighbouring properties. Even with the imposition of planning conditions to mitigate the effects of the proposal, because of the proximity of the hut to the neighbouring dwellings any noise and disturbance would be readily noticeable. Exposure to noise can cause annoyance, which affects quality of life and can cause impacts on health. I therefore conclude that the original scheme would have an unacceptable effect on the living conditions of the neighbouring occupiers.
8. In seeking to address concerns raised by the Council's public health and housing team, the northern most straw hut has been removed and the revised layout shown on Proposed Block Plan (ref 30-005 Rev A) comprises five units. This layout, in combination with mitigation provided by the imposition of conditions to secure an acoustic fence, an appropriate entrance gate, site management in relation to noise complaints and restricted hours of use of amplified music would ensure that the living conditions of the occupiers of Langdale and Borrowdale would not be adversely affected. In coming to this conclusion, I have taken account of the scale of the proposal, the separation distances from the sensitive receptors to the nearest holiday let units and the nature of the proposed use as a wellness retreat.
9. While there would be sounds associated with the coming and goings of visitors, outdoor dining and activities, the effects of the proposal would not be so noticeable as to diminish the quality of life of the occupiers of Langdale and Borrowdale, even during fair weather when they would be likely to open their windows and use their gardens. It follows that the tranquil qualities of the nearby public route known as the Railway Walk would not be diminished. The proposal would therefore fulfil the provisions of the National Planning Policy Framework which seek development that is appropriate for its location and a high standard of amenity for all users.
10. To conclude, the proposal would not unduly harm the living conditions of the occupiers of the properties known as Langdale and Borrowdale, with regard to noise and disturbance, and would be in accordance with Policies DM2 and DM14 of the Joint Development Management Policies Document (2015). Amongst other things, these policies require proposals to minimise noise pollution and to not adversely affect the amenities of adjacent areas by reason of noise, taking account of any mitigation measures. Development will not be permitted where there are likely to be unacceptable impacts on general amenity.

Other Matters

11. Concerns raised by interested parties, including the location of the proposal, highway safety, biodiversity including trees and the effect of the proposal on the character and appearance of the area were largely identified and considered within the officer report. The Council did not conclude that these matters would amount to

reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusions in these respects. Similarly, there is no clear reason to find that the appeal should be deemed invalid and while neighbouring occupiers have concerns regarding the height and positioning of the existing fence nearest their property this falls within permitted development rights.

12. Matters relating to any previous activities on the site, existing works undertaken, council tax and business rates are not within the scope of this appeal. These matters, along with a number of residents expressing frustrations with the appellant's approach to the proposed development and landholdings, have not affected my consideration of the appeal which I have considered on its planning merits alone.

Conditions

13. It is necessary to impose a condition identifying the approved plans for certainty. The submission and approval of a construction method statement is required in the interest of highway safety and protecting the living conditions of neighbouring occupiers, and before the commencement of development as the details relate to the construction phase.
14. To protect biodiversity, conditions are imposed requiring the submission of a construction environmental management plan (CEMP), biodiversity enhancement strategy, and a wildlife sensitive lighting design scheme. Similarly, a condition to ensure the development is carried out in accordance with the ecological appraisal and reptile survey is imposed. As it relates to the construction phase, the condition to secure a CEMP is required before the commencement of development.
15. While I observed that some works have already taken place, it has not been clearly shown that they meet the necessary standards, as such a condition is imposed to secure the implementation of the access in the interest of highway safety, this includes reference to gradient, materiality and visibility splays and so separate conditions are not necessary. For the same reason, conditions are imposed to secure car and cycle parking and the installation of a gate, which also refers to a scheme first being agreed with the Council to ensure the living conditions of neighbouring occupiers are protected with regard to noise.
16. I have imposed conditions in relation to the fence nearest the boundaries with Langdale and Borrowdale, a site management plan and restrictions on amplified music in the interests of protecting living conditions. For the same reason, conditions are also imposed in relation to construction and delivery hours and bin storage. As a consequence of my findings on the main issue it is not necessary to restrict the use of BBQs or outside dining. There is no external plant, equipment or machinery, including solar panels or air source heat pump shown on the submitted plans and so a condition on this matter would not be fairly and reasonably related to the development permitted and a condition has not been imposed.
17. To ensure the protection of retained trees in the interest of the character and appearance of the area a condition is imposed in relation to securing the submission of an arboricultural method statement. This is required before the commencement of development to ensure damage is not caused to the trees during the early stages of work. Also in the interest of character and appearance, a

condition is imposed in relation to painting the storage container and the implementation of a soft landscaping scheme.

18. A holiday occupation condition is required to ensure that the holiday let units are not occupied as a sole or main place of residence and are kept as holiday accommodation. However, given my findings on the main issue, it is not necessary to restrict the length of stay or to prevent group bookings.

Conclusion

19. For the reasons given above, the proposal would accord with the development plan, read as a whole. There are no material considerations, that indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed.

F Harrison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan 20-001; Proposed Log Cabin 30-002; Proposed Hobbit Hole 30-003 Rev B; Proposed Straw Bale Hut 30-004; and Proposed Site Plan 30-005 Rev A.

Pre-commencement

- 3) No development shall commence until a Construction Management Strategy (CMS) has been submitted to and approved in writing by the local planning authority. It shall include details of the parking of vehicles of site operatives, delivery arrangements and a methodology for avoiding soil from the site tracking onto the highway and a remediation strategy. The approved CMS shall be adhered to throughout the construction period.
- 4) Notwithstanding the preliminary method statement included at Appendix 6 of the Arboricultural Impact Assessment Report (AIA) (2022) by Roberts Arboricultural Ltd, no development shall commence, including any site clearance, until an Arboricultural Method Statement (AMS) has been submitted to and agreed in writing by the local planning authority. It shall include details of the following:
 - measures for the protection of retained trees shown on Tree Protection Plan RA501 TPP at Appendix 3 of the AIA, including construction measures within the root protection areas specifying the position, depth, and method of construction/installation/excavation;
 - the removal of the spoil, including around tree stems within the Root Protection Areas of T29, T30, G31, T52, T54, T57, T60 and T66 as shown on the Tree Survey Plan RA501 TSP at Appendix 2 of the AIA; and
 - a schedule of proposed surgery works to be undertaken to those trees on the site which are to be retained.

The approved AMS shall be adhered to throughout the construction period.

- 5) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the local planning authority. It shall include the following:
 - non-licensed Method Statement relating to reptiles and Great Crested Newts;
 - results of updated site walkover for bat roost potential and badger activity;
 - risk assessment of potentially damaging construction activities and identification of “biodiversity protection zones”;
 - practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including the location and timing of any sensitive works to avoid harm to biodiversity features;
 - times during construction when specialist ecologists need to be present on site to oversee works, details of responsible persons and lines of communication and the role and responsibilities on site of an ecological clerk of works or similarly competent person; and

- use of any protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to throughout the construction period.

After commencement

- 6) Construction works, including deliveries taken at or despatched from the site, shall take place only between 08:00 and 18:00 on Mondays to Fridays and 08:00 – 13:30 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) The development hereby permitted shall be carried out in accordance with the recommendations and enhancement measures identified in the Preliminary Ecological Appraisal (August 2022) by Practical Ecology and the Reptile Survey Report (September 2022) by Practical Ecology.
- 8) Prior to the installation of external lighting, full details of a wildlife sensitive lighting scheme including height, design, location and intensity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify features on site that are sensitive for bats including important routes used for foraging so that it can be demonstrated that areas to be lit will not disturb or prevent bats using their territory. The external lighting shall then be carried out in accordance with the approved details and maintained as such thereafter.
- 9) No above ground construction shall commence until a Biodiversity Enhancement Strategy for protected and priority species has been submitted to and approved in writing by the local planning authority, which shall include:
 - purpose and conservation objectives for the proposed enhancement measures;
 - detailed designs or product descriptions to achieve stated objectives;
 - locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans (where relevant) and timetable for implementation;
 - persons responsible for implementing the enhancement measures; and
 - details of initial aftercare and long-term maintenance (where relevant).

The development shall then be carried out in accordance with the strategy and the enhancement measures shall be implemented prior to the occupation of the development hereby permitted and shall be retained as such thereafter.

- 10) No above ground construction shall commence until a soft landscaping scheme has been submitted to and approved in writing by the local planning authority, drawn to a scale of not less than 1:200 and include planting plans and specifications. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the development being brought into use or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Prior to the development being brought into use

- 11) The development hereby permitted shall not be brought into use until the means of access, shown on Proposed Site Plan 30-005 Rev A, has been constructed at a gradient not steeper than 1 in 12 measured from the nearside of the edge of the highway. It shall be surfaced with a bound material for a minimum distance of 5

metres, measured from the nearside edge of the metalled carriageway, in accordance with details that shall first have been agreed in writing with the local planning authority. The access shall be retained as such thereafter and the visibility splays shall remain free of any obstruction exceeding 0.6 meters in height.

- 12) The development hereby permitted shall not be brought into use until the areas for the purposes of manoeuvring and vehicle parking spaces have been provided in accordance with Proposed Site Plan 30-005 Rev A. Thereafter these areas and parking spaces shall be retained for the manoeuvring and parking of vehicles only.
- 13) The development hereby permitted shall not be brought into use until the gate shown on Proposed Site Plan 30-005 Rev A has been implemented, in accordance with details that have first been agreed in writing with the local planning authority. It shall be set back a minimum of 5 metres from the public highway and shall not open towards the highway and be retained as such thereafter.
- 14) The development hereby permitted shall not be brought into use until space has been laid out within the site for a minimum of 12 bicycles to be stored, in accordance with the Suffolk Guidance for Parking (2023) and details that shall first have been agreed in writing with the local planning authority. This space shall be retained as such thereafter.
- 15) The development hereby permitted shall not be brought into use until space has been laid out within the site for the storage and presentation for the collection/emptying of refuse and recycling bins, in accordance with a scheme that shall first have been agreed in writing with the local planning authority. This space shall be retained as such thereafter.
- 16) The development hereby permitted shall not be brought into use until the fence shown on Proposed Site Plan 30-005 Rev A to the south and west of Langdale and Borrowdale is 2 metres high, close-boarded and with a minimum surface density of 10 kilograms per metre squared and thereafter maintained as such.
- 17) The development hereby permitted shall not be brought into use until a site management plan has been implemented, in accordance with details that shall first have been agreed in writing with the local planning authority. It shall include measures for reporting and recording noise and other complaints and remedial action. Once approved, the development shall be implemented in accordance with the agreed plan, and thereafter retained as such.
- 18) The development hereby permitted shall not be brought into use until the storage container at the northern boundary of the site as shown on Proposed Site Plan 30-005 Rev A is painted a shade of dark green that shall first have been agreed in writing with the local planning authority and shall be retained as such thereafter.

Post operation monitoring and management

- 19) Amplified or other music may only be played at the site between the following hours: 10:00 – 21:00 Mondays – Sundays.
- 20) The development shall be occupied as holiday accommodation only and shall not be occupied as a sole or main place of residence.

*****End of Conditions*****