



Appeal Decision

Site visit made on 26 March 2018

by **Caroline Mulloy BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 May 2018

Appeal Ref: APP/H0738/W/18/3193185

Riverside Lodge and Lands, A67 from Urray Nook Road to Airport (southside), nr Eaglescliffe, Stockton, TS16 0QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Steve Harrison against Stockton-on-Tees Borough Council.
 - The application Ref 17/1312/FUL, is dated 15 May 2017.
 - The development proposed is erection of a single-storey, 2-bedroom, log cabin with decking surrounding, as a single permanent dwelling to replace the existing accommodation of motor-home & caravan; erection of 2x holiday-let, wooden pod-cabins, on concrete bases; formation of 4 more concrete bases for possible future podcabins; retention of secure, fenced compound; retention of existing fencing business use from the site; relocation of existing tool store / office structure within compound; retention of existing boundary treatments; retention of field-shelter, shed, storage-shed & toilets; retention of existing access; and retention and formation of associated existing & new car parking & landscaped areas.
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Decision

1. The appeal is dismissed and planning permission refused in relation to the '*formation of four more concrete bases for possible future podcabins*' as shown on the proposed plans dated February 2017.
2. The appeal is allowed and planning permission is granted for erection of a single-storey, 2-bedroom, log cabin with decking surrounding, as a single permanent dwelling to replace the existing accommodation of motor-home & caravan; erection of 2x holiday-let, wooden pod-cabins, on concrete bases; retention of secure, fenced compound; retention of existing fencing business use from the site; relocation of existing tool store / office structure within compound; retention of existing boundary treatments; retention of field-shelter, shed, storage-shed & toilets; retention of existing access; and retention and formation of associated existing & new car parking & landscaped areas at Riverside Lodge and Lands, A67 from Urray Nook Road to Airport (southside), nr Eaglescliffe, Stockton, TS16 0QD in accordance with the terms of the application, Ref 17/1312/FUL dated 15 May 2017, subject to the conditions set out in the Schedule attached to this Decision.

Application for costs

3. An application for costs was made by Mr Steve Harrison against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Procedural Matter

4. Elements of the development are already on the site such as the compound, tool store and field shelter and I have dealt with the appeal on this basis.

Preliminary Matters

5. Ten letters of support have been submitted by the applicant which suggest that the static caravan/motor home and the tool/store have been on the site over ten years. The Council's Principal Solicitor has reviewed the information and confirmed that the use of the land for the siting of the caravan for residential purposes and part of the land for storage of materials with the fencing business is likely to be lawful. The Council, therefore, consider that on balance the principle of a replacement caravan type structure would be acceptable in this instance. From everything which I have seen in submissions and on my site visit, I have no reason to disagree.

Main Issues

6. Taking into account the above, the main issues in this case are:
 - Whether future occupiers/users of the tourist accommodation and business use would be able to access the site, services and facilities by means of transport other than the private car having regard to the location and development plan policy.
 - The effect of the development/proposal on the character and appearance of the countryside.

Reasons

Access to services

7. The appeal site is situated to the south of the A67, Eaglescliffe. Saved Policy EN 13 of the Stockton-on-Tees Local Plan (Local Plan) (1997) allows for, amongst other things, a '*small-scale facility for tourism*' outside the limits to development provided that it does not harm the character or appearance of the countryside.
8. The Council are concerned that the 'camping pods' are larger than other types of camping pods and include a separate area for dining and sleeping and a separate bathroom. However, the appellant acknowledges that they are not for camping and I note that the description contained on the application form of '*holiday-let wooden pod-cabins*' on concrete bases was agreed with the Council at the time of submission in recognition of this.
9. The proposal also includes four concrete bases intended for further cabins in the event that the appeal is successful. The Council consider that the proposal should be considered on the basis of six wooden pod-cabins; however, I can only consider the proposal on the basis of the description of the application and the plans. Consequently, for the avoidance of doubt, I am considering the tourism element of the proposal on the basis of two holiday let wooden pod-cabins and four concrete bases.
10. Neither Policy EN 13 nor the supporting text defines 'small-scale'. Whilst the wooden pod-cabins would include separate areas for dining and sleeping and a separate bathroom they would accommodate an average sized family and would not be excessive in scale. Consequently, I consider that the two wooden pod-cabins would be modest in both size and number and as such they would be '*small-scale*' within the context of Policy EN 13.

11. Within the context of the current appeal proposal the four concrete bases would serve no useful purpose. For this reason, together with the reasons set out in the second main issue, I have dismissed this element of the proposal. Any future application for further cabins would be considered on its own merits.
12. The Council are concerned that future occupiers of the lodges would be reliant on the private car to access services such as retail, leisure and recreation. There are no bus stops or bus services which pass the site; however, the centre of Eaglescliffe which has a range of services including shops, supermarkets and pubs is only around 0.9 miles away or an approximately 15 minute walk. Furthermore, the settlement of Yarm is only around 1.9 miles away which also has a range of facilities. Whilst I acknowledge that the appeal site is not served by public transport, I consider that holiday use would be materially different from permanent residential use in terms of access and travel requirements and the daily needs of occupants.
13. Moreover, paragraph 28 of the National Planning Policy Framework (the Framework) seeks to support economic growth in rural areas. It states that plans should support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres. The Framework does not exclude other developments that have the potential to contribute to the rural economy. The proposal would make provision for tourist accommodation in close proximity to a service centre and in addition as visitors using the proposed accommodation would be likely to visit other places to eat, drink and utilise leisure and recreation facilities, the proposal would make a positive contribution to the local economy.
14. Turning to the business use, the Council indicate that the evidence submitted in support of the application demonstrates that part of the land for storage of materials within the fencing business is likely to be lawful and that there is evidence that the fencing equipment has been stored at the site. However, it states that there is no evidence that customers of the business visit the site. Notwithstanding the planning status of the existing use I shall consider the appeal on the basis of the plans which are before me.
15. The fencing business is situated outside the limits of development. Furthermore, whilst the fencing business makes a contribution to the local economy it does not specifically contribute to the diversification of the rural economy as required by criterion (iii) of Policy EN 13. Consequently, the fencing business conflicts with the Policy.
16. The planning statement indicates that the fencing business involves three vehicles coming and going at the start and end and also throughout the day. It is not clear as to the extent to which customers currently visit the site; however, there are limited formal facilities to receive customers such as reception areas, show rooms or sales areas and consequently any use by customers is likely to be low level. Although the appeal site is not served by public transport it is likely that, due to the nature of the business, any customers would be likely to require a vehicle in any event. Furthermore, the appeal site is situated in close proximity to the settlements of Eaglescliffe and Yarm.
17. It appears that some form of fencing business has operated from the site for many years. Whilst the buildings would be relocated within the compound, it is not proposed to increase the extent of storage or business use. Furthermore, the

fencing business would continue to make a contribution to the local economy. Notwithstanding the current planning status of the site due to the small scale nature of the operation, I consider that any harm arising from the fencing business in terms of the generation of trips by private car would be limited.

18. For the reasons stated, the tourism element of the proposal would be in accordance with Policy EN 13 of the Local Plan. Although the fencing business conflicts with Policy EN 13, taking into account the historical use of the site and the nature of the business I consider that any limited harm arising would be outweighed by the continued contribution the business would make to the local economy.

Character and appearance

19. The appeal site is comprised of an enclosed area of hardstanding on the boundary which is currently occupied by a motor home, tool store/office and caravan and associated items of machinery. A field shelter and shed lie to the west of the site and a storage shed lies to the south. The remainder of the site is largely rough open grassland reflecting its former use as a motor-cross site and it has a steep downward slope from north to south. With the exception of the buildings/structures within the compound and the field shelter, the site generally has an open character. It is surrounded by open agricultural fields and an established fishing pond business sits to the east and south of the site.
20. The existing caravan is a significant size and was sited towards the southern boundary of the compound at the time of my site visit. The motorhome was situated towards the south west of the compound. It is proposed to replace these with a single storey log cabin which would be surrounded by a balcony and decking area.
21. The proposal would have a greater footprint, mass and bulk than the existing caravan. It would also have a greater degree of visual permanence than the existing caravan/motor home. Nevertheless, the log cabin would be situated perpendicular to the road and the gable elevation would be well screened by existing landscaping on the northern boundary due to the single storey nature of the cabin. Consequently, whilst there would be a change to the character of the site arising from the more permanent nature of the cabin, I consider that the change would be minimal. Furthermore, I have taken into account that the occupier could continue to live in the caravan and motor home on the site as the use is established.
22. The potential for domestic paraphernalia exists with the current residential use and any such items would be visually contained from the road due to the vegetation. Consequently, the timber cabin would not have a materially harmful effect on the openness of the site or the character and appearance of the area.
23. It is proposed to relocate the existing tool store towards the northern boundary of the site. Due to the dense vegetation on the northern boundary the tool store would not be visible from the road. Consequently, the proposal to relocate the tool/store would not result in a materially harmful effect on the character and appearance of the countryside.
24. The proposed wooden pod cabins would be situated on the south east boundary of the site and would be single storey, erected on concrete bases. The southern boundary of the site has a more open aspect and the pods would overlook the fishing ponds and beyond this open agricultural fields. Due to the open and elevated nature of this part of the site, the pods would be visible from the fishing lake. There would also be the potential for medium to long range views of the

camping pods; however, there is a line of trees beyond the fishing lake which would assist in screening views from the south. Furthermore, with the exception of the fishing lakes, there are few visual receptors to the south of the site such as public footpaths where public views of the pods could be achieved. Landscaping could be secured on the boundary of the site in order to assist in screening views from the fishing lake. Consequently, whilst there would be a change to the character of this part of the site, I consider that it would not be materially harmful. Details of hard and soft landscaping such as the gravel footpaths and car parking can be required by condition.

25. The proposed four hard standings would not serve a useful purpose and when viewed in isolation would appear as incongruous additions. I have, therefore, dismissed this element of the proposal. The effect of any additional pod cabins on the character and appearance of the area should be assessed as part of any future application.
26. For the reasons stated, I conclude that the four hardstandings would harm the character and appearance of the area and would, therefore, conflict with Policy EN 13 of the Local Plan.
27. For the reasons stated, the remainder of the development, with the suggested conditions, would not harm the character and appearance of the area. It would not, therefore, be contrary to Policy EN 13 of the Local Plan. Neither would conflict arise with paragraph 17 of the Framework.

Other matters

28. Representations have been received suggesting that the occupancy of the proposed timber cabin should be restricted to that of the manager of the business. However, the existing caravan has an established and unrestricted residential use.
29. Concerns have also been raised with regards to the proposed drainage of the site; however, I have imposed a condition requiring details and implementation of a scheme of disposal for foul and surface water to ensure suitable provision.

Conditions

30. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans as this provides certainty. The Council has suggested conditions which I have modified to reflect the tests set out in paragraph 206 of the Framework and the Planning Practice Guidance.
31. I have imposed conditions requiring details of hard and soft landscaping and a further condition ensuring that the landscaping becomes established in the interests of the character and appearance of the area.
32. I have also imposed a condition restricting the occupancy of the wooden pod cabins to ensure that they are not used for residential purposes other than for holiday letting purposes. Notwithstanding the historical existing residential use, the appeal site would not be suitable for further permanent residential development due to the location.
33. A condition requiring that the proposed access and parking bays serving the pods are constructed using 'no-dig' construction methods is necessary in order to protect existing trees/vegetation on the site.

34. Due to the presence of historical contaminative features within 250m of the site it is necessary to impose a condition relating to unexpected land contamination. A further condition requiring details and implementation of a scheme of disposal for foul and surface water is necessary to ensure suitable provision and to prevent the increased risk of flooding.
35. The Council has suggested a condition requiring that the residential curtilage of the premises be restricted to the physical extent of the chalet/log cabin structure. However, this would result in future occupiers having no amenity space which would be unreasonable. The appellant has suggested that the residential curtilage could be restricted to the compound fencing line or to an area of no more than 10m from the outer edge of the approved structure if the condition is required at all. The log cabin would be situated within the compound together with structures associated with the fencing business. Whilst the curtilage of the existing residential use is not restricted, this is far from ideal given the potential conflict between the business and residential use. Consequently, I consider that some delineation would be necessary in order to avoid potential conflict. Defining the curtilage by the existing compound fence would not resolve this matter and, therefore, a residential curtilage extending no more than 10m from the outer edge of the cabin would be more appropriate. I have concerns regarding the enforceability of the wording of the suggested condition and I have, therefore, imposed a condition requiring a revised plan to be submitted defining the curtilage in the interests of certainty.

Planning Balance

36. The continuation of the fencing business would result in conflict with Policy EN 13. However, I have concluded that the proposal would not have a materially harmful effect on the character or appearance of the area with the suggested conditions. Moreover, I consider that the contribution which the development/proposal would make to the local economy would outweigh this policy conflict.

Conclusion

37. For the reasons stated, and taking all other considerations into account, the appeal should be allowed with the exception of the four hardstandings.

Caroline Mulloy

Inspector

Schedule

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans except in respect of the four concrete bases for possible future podcabins shown on drawing no 17/06/02: Drawing No: 17/06/10 Location Plan; Drawing no: 17/06/01 Existing Plans; Drawing No: 17/06/02 Proposed Plans; Drawing No: 17/06/03 Proposed Pod Plans and Elevations; Drawing No: 17/06/04 Proposed log cabin; Drawing No: 17/07/07 Existing outbuildings plans.
- 3) Notwithstanding condition 2, no development shall take place until revised plans have been submitted showing the residential curtilage of the log cabin hereby approved. The residential curtilage shall be no more than 10m from the approved structure. Development shall be carried out in accordance with those plans.
- 4) The wooden pod cabins hereby approved shall not be used for residential purposes other than for holiday letting purposes. The wooden pod cabins shall not be occupied as a person's sole or main place of residence and shall not be let to the same person, group of persons or family for any period(s) exceeding a total of 28 days in any one calendar year. The owners/operators shall maintain an up-to-date register of the names (and permanent addresses) of all occupiers of the wooden pod cabins and shall make this information available at all reasonable times to the local planning authority on their request.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) Details of hard and soft landscape works shall include car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; other planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings 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.
- 8) No development shall take place until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the local planning authority. The works shall be completed in accordance with the approved scheme prior to occupation of the development and shall be retained thereafter.

- 9) The proposed access and parking bays serving the wooden pod cabins shall be constructed using 'no-dig' construction methods. Full details of the construction materials and methods to be employed shall be submitted to and be agreed in writing with the Local Planning Authority prior to commencement of the development. The agreed scheme shall be implemented in accordance with these details.
- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.