



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 1/05/18

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11/06/2018

Appeal Decision

Site visit made on 1/05/18

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 11/06/2018

Appeal Ref: APP/T6850/A/18/3196001

Site address: Wyeside Caravan Park, A470 from Wye View Terrace Rhayader to Junction with C1216 at Marteg Bridge, Rhayader LD6 5LB

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Mr Nathan Goodyear, The Camping and Caravanning Club against the decision of Powys County Council.
 - The application Ref P/2017/0119, dated 25/01/2017, was refused by notice dated 13/12/2017.
 - The development proposed is site upgrades and improvements comprising: conversion of 42 existing grass pitches to gravel hardstandings including one site manager's pitch, replacement of internal site access road and stone car park area, provision of a service point and motorhome service point, electric site access and egress barriers, provision of a bin storage area.
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Decision

1. The appeal is allowed and planning permission is granted for upgrade of existing pitches to gravel hardstandings, the replacement of a site access road and stone car park and other associated works at Wyeside Caravan Park, A470 from Wye View Terrace Rhayader to Junction with C1216 at Marteg Bridge, Rhayader LD6 5LB in accordance with the terms of the application, Ref P/2017/0119, dated 25/01/2017, and the revised plans submitted with it, subject to the conditions in the schedule below.

Application for costs

2. An application for costs was made by Mr Nathan Goodyear, The Camping and Caravanning Club against Powys County Council. This application will be the subject of a separate decision.

Procedural matters

3. The description of the development changed during the course of the application to "upgrade of existing pitches to gravel hardstandings, the replacement of a site access road and stone car park and other associated works". Revised plan Drawing No. WYE/000/17 Rev C: Proposed Layout was also submitted showing the conversion of 30 grass pitches to gravel hardstandings and a site manager's pitch together with internal access road, service area and motorhome point, electric site access, bin storage and landscaping. It is on the basis of these changes the appeal is considered. I consider that no prejudice would arise in dealing with the appeal this way.
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4. Since the refusal of planning permission the Powys Local Development Plan (LDP) was adopted. The appeal is considered in relation to the LDP and the parties have been given an opportunity to comment on this change and identify the relevant policies and they have also had an opportunity to respond on each other comments in this appeal.

Main Issues

5. The Council's refusal was based on an unacceptable intensification of the use of the caravan site within an unprotected flood zone, and the development's adverse effect on visual amenity.
6. The main issues are; whether the proposal would lead to intensification of the use of the site as a caravan site and whether the proposed development would be at significant risk of flooding, and the effect of the proposal on the character and appearance of the area.

Reasons

Intensification of the use of the caravan site and risk of flooding

7. The appeal site is an established caravan and camping site on the banks of the river Wye in Rhayader. The appellant is an exempted organisation under Schedule 1(4) of the Caravan Sites and Control of Development Act 1960 (the 1960 Act). Part 5 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 1995 as amended, provides that the use of land as a caravan site in the circumstances referred to in Schedule 1 of the 1960 Act is permitted development not requiring express planning permission for the use of land and is also exempt from the requirement of obtaining a site licence.
8. The appellant advises that there is no restriction on the number of pitches, and the mix of tents/touring caravan pitches on the site. There is also no restriction on the period when the caravan/tenting site is open during the course of the year. The exempted organisation is only restricted by the spacing and density requirements of the site in relation to the Model Standards for touring sites under the 1960 Act. The appellant leases the land on a long-term basis from the Council.
9. The Council asserts that the site improvements would lead to all-year round use of the site, and claims that there is little use of the site during winter. Notwithstanding that prevailing site conditions and inclement weather may inhibit the intensity of the use, there are seemingly no controls over the use of the land from a planning point of view and the use of the site would be down to its present management. Given that it would be for the site operator to decide the use and intensity of the site throughout different periods of the year, this fall-back situation is a weighty material consideration. The fact that the operator could fully utilise the field without the proposed hardstandings in place for the same period of the year as would be the case if the proposal for hardstandings were to be implemented would not facilitate a more intensive use of the caravan site from a planning perspective.
10. There is no compelling evidence that the physical works involved in the proposal would increase the scale of the use that would result in a materially different and definable character of use and that it would have materially different planning consequences off the site.
11. The planning application relates solely to operational development and as such it would not be construed as a new caravan site development for the purposes of applying Section 6 of the Technical Advice Note 15: Development and Flood Risk (TAN

15). The consequences of flooding have been submitted to Natural Resources Wales as part of the application and it is satisfied that approval may be given on a conditional basis. I have no reason to disagree with that assessment.

12. I consider that the development does not conflict with LDP Policy DM5 – Development and Flood Risk, and DM6 – Flood Prevention Measures and Land Drainage. I conclude that the proposal would not lead to intensification of the use of the site as a caravan site and the proposed development would not be at significant risk of flooding.

Character and appearance

13. The site adjoins the settlement of Rhayader and is an established caravan and camping site situated alongside a static caravan site managed under the same operator. The Council indicates that the site has a natural character of a field with limited infrastructure. However, this description contradicts the legitimate planning use of the land of all-year round camping and caravans which would reflect the appropriate context of the site when assessing the proposed development. The proposed development when the site is occupied would not alter or change the view as it would be seen in the context of an established caravan site. It would not be altered by the view from the south where recreational man-made facilities are in place, from the footpath, or from the adjoining sensitive landscape areas designated for their ecological importance the River Wye Special Area of Conservation (SAC) and the Site of Special Scientific Interest (SSSI).
14. The appeal site is considerably screened along its boundaries including the river and the proposal incorporates an additional 5m buffer strip, central landscaping and planting alongside the motorhome service point. I consider that the proposed development would not unacceptably or adversely affect the valued characteristics and qualities of the landscape. The proposal would not have a significant impact on the landscape or visual amenity of the area and would not conflict with LDP Policies SP7, DM4, DM13 and TD1.
15. I conclude that the proposal would not harm the character and appearance of the area.

Other matters

16. I note that concerns have been raised in relation to the possibility of a breach of the terms of the lease, however, this matter is outside the jurisdiction of this appeal, and is not a planning matter for consideration in this appeal. The public right of access that crosses the caravan site and which is registered as Common Land is protected as noted by the Commons Registration Officer as the access road surface which crosses the right of access will only be repaired. This matter is separately regulated by the Commons Act 2006 and the officer notes that no additional consent is required for these repairs under Section 38 of the Commons Act from the Welsh Government. I have no jurisdiction on these legal issues and rights of access and there is no parallel application for the proposed works before me with this planning appeal.
17. I note that other concerns have been raised on noise, habitats and ecology and traffic, but no technical evidence has been submitted to indicate that the impact of the proposed development would have adverse effects in relation to these matters, and the Council's technical advisers and statutory consultees on these matters indicate that the development is acceptable subject to suitable controls. None of these matters therefore alter my conclusions on the main determining issues.

Conclusions

18. I conclude that in relation to both main determining issues the appeal complies with the development plan and therefore the presumption in favour of sustainable development is engaged in relation to Planning Policy Wales Edition 9 paragraphs 4.2.2 and 4.2.4.
19. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching my decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.
20. I conclude that the appeal should be allowed.

Schedule of conditions

21. I have considered the Council's suggested conditions and the appellant's response to them in the light of Circular WGC 016/2014 'The Use of Planning Conditions for Development Management'. I have made some revisions to the wording of the conditions to ensure that the development is carried out in accordance with the details to be agreed with the local planning authority. I have taken out references to 'tailpiece' phrases 'unless otherwise agreed in writing by the local planning authority' in accordance with paragraph 3.37 of WGC 016/2014. The appellant's suggested revisions to conditions 8 and 11 do not now appear in the Council's draft of conditions appended to its statement of case. However, I have revised the wording of condition 8, as I consider it would be unreasonable to restore the land to its former condition upon the expiry of the temporary use of the pitch, but do consider that to ensure compliance with the cessation of the use any caravan placed there should also be removed.
22. The first two conditions are needed in the interests of defining the scope of the development. Condition 10 and 3 are necessary to clarify the level of the access road relative to surrounding grounds levels in the interests of minimising the flood risk and flow of any flood waters together with the need to ensure that all occupants are aware and informed of the measures to take prior to a possible flood event. Conditions 4, 5 and 7 are needed to protect the habitat of protected species. Condition 6 is needed in the interests of the visual appearance of the area.
23. Condition 8 is necessary to allow a temporary permission to control the occupancy of the residential caravan in the countryside and after the duration of the permission to ensure that the use ceases and the caravan is removed from the site in order to protect the countryside given the restrictions in the development plan to permit residential uses outside development boundaries. Condition 9 is needed to ensure proper control of the holiday caravans and the use of the site in the interests of protecting the countryside given the restrictions in the development plan to permit residential uses outside development boundaries.
- 1) The development shall begin not later than five years from the date of this decision.
 - 2) The development shall be carried out in accordance with the following approved plans and documents: Amended Layout Plan Drawing No. WYE/000/17 Rev C

(received 13th October 2017), Hardstanding detail STD.15, Tarmacadam Road / Pathway Detail STAND/0009, Bin Store STAND/010, Site manager pitch STAND/016/CED, Service Area STD.04, Motorhome service point combined with service area STAND/030, Hook up bollard and plinth detail STAND/028, Construction Method Statement (May 2017), Information to support an Assessment of Likely Significant Effects under the Habitat Regulations (June 2017), Flood Procedure and Policy (as amended) received 14th March 2017, Biodiversity Enhancement Report (June 2017), Flood Risk Consequences Assessment (January 2017), Clarification Statement (received on 12th September 2017).

- 3) Prior to the development hereby permitted being brought into use a Flood Management and Evacuation Plan shall be submitted to, and approved in writing by the local planning authority, and the development shall be carried out in accordance with the approved Flood Management and Evacuation Plan throughout the lifetime of the development.
- 4) The development shall be carried out strictly in accordance with the measures identified regarding Pollution Prevention within the Construction Method Statement produced by the Camping and Caravanning Club dated May 2017 and maintained thereafter throughout the lifetime of the development.
- 5) The development shall be carried out strictly in accordance with the measures identified in Section 4.0 - Retention and Enhancement: Habitats and Section 5.0 - Mitigation and Enhancement: Protected Species of the Biodiversity Enhancement Report dated June 2017 and shall be maintained thereafter.
- 6) Prior to the development hereby permitted being brought into use a detailed landscaping and management plan including a timetable for planting shall be submitted to, and approved in writing by the local planning authority. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management and maintenance. The landscaping plan, management plan and timetable shall be carried out as approved.
- 7) No external lighting, with the exception of electric hook-up bollards, shall be installed unless a detailed external lighting design scheme has been submitted to, and approved in writing by the local planning authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.
- 8) The site manager's pitch is to be a temporary residential pitch for a time period of three years from the implementation of this planning permission. Upon the expiry of the temporary time period, the pitch shall cease to be occupied and the caravan shall be removed from the site.
- 9) The development shall be occupied as holiday accommodation only and shall not be occupied as a person's sole or main place of residence or by any persons exceeding a period of 28 days in any calendar year. An up to date register shall be kept at the Wyese Caravan Park as shown on site layout plan drawing No. WYE/000/17 Rev C and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the tourers, tented camping and motorhome accommodation, their main home addresses and their date of arrival and departure from the site.
- 10) Prior to the commencement of development contoured plans of the site and immediately adjoining land and cross sections through the site itself sufficient to demonstrate the existing and proposed levels including finished levels of the

proposed road shall be submitted to, and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved contour plans and cross sections.

Iwan Lloyd

INSPECTOR