



Appeal Decision

Site visit made on 16 August 2022

by **S Dean MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th August 2022

Appeal Ref: APP/M2840/W/22/3293782

Fineshade Wood, Top Lodge, Fineshade, NN17 3BB, 498434, 298940

- 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 Mrs Donna Barney against the decision of North Northamptonshire Council.
 - The application Ref NE/21/00388/FUL, dated 20 February 2021, was refused by notice dated 27 August 2021.
 - The development proposed is the change of use of land to a camping/glamping site and ancillary warden's accommodation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - the effect of the proposal on the character and appearance of the area,
 - whether or not the proposal would be compatible with nature conservation interest,
 - the effect of the proposal on the setting and significance of the nearby listed building, and
 - whether or not the site can be safely and conveniently accessed without harm to highway safety.

Reasons

Character and appearance

3. The appeal site lies immediately south of a complex of buildings and land focused around Top Lodge, a Grade II listed farmhouse with its attached granary, outbuildings and sheds. Known as Fineshade Wood, the Forestry Commission site based in Top Lodge and its associated buildings includes a visitor centre, cycle hire, toilets, a café and a number of shops, as well as an outdoor play area, seating and a large car park to the rear. A caravan and motorhome site adjoins that site, along with further car parking.
4. In addition to a public right of way which passes between the site and Fineshade Wood, which is itself part of the long-distance Jurassic Way, there are a number of formal signed (and informal unsigned) walking, running, cycling and horse-riding routes around the densely-wooded wider area for visitors, centred on the Top Lodge complex. There are also several dwellings.

5. Experienced from the main road, the access road and the immediate surroundings, the appeal site appears as an open, undeveloped field within an otherwise largely wooded and enclosed broader landscape. Set against that wider character, the particular open and undeveloped character of the appeal site itself contrasts with and reinforces the character and appearance of the wider landscape. This character and appearance persists within the site, its immediate surroundings, and when travelling around the tracks and trails centred on Fineshade Wood. In particular, travelling along the marked trails (some of which are overlain by a public right of way) past the site, one is struck by the contrast between the appeal site and its surroundings and the otherwise largely enclosed nature of the wider area.
6. In this, I acknowledge that the south-western boundary of the site is made up of trees which have grown along a disused railway line. Nevertheless, that boundary is now part of, and contributes to, the established character and appearance of the area.
7. As noted by the appellant, there are a number of leisure uses close to the site, within and around the Forestry Commission centre at Top Lodge, including the caravan and motorhome site and areas of car parking. Whilst I agree that these uses are visible in close views, they are visually extremely well-contained by hedging and trees with limited views into them through their strong boundary features. The private houses to the north of the site are similarly well-contained.
8. The wider Top Lodge complex, including the Forestry Commission buildings, caravan park, car parks, horse-riding facilities, cycling-facilities, paths, trails and routes are clearly a locus for an extremely popular and well-used, economically valuable, leisure use in the area.
9. To my mind, the appeal site plays an important role in reinforcing the established character of this area, by offering a tranquil, calm and apparently unchanged and unchanging contrast to the activity at, around and centred on the Top Lodge site. This contrast reinforces both the rural location of the site and the importance of the concentration of active uses in a relatively discrete area.
10. No details have been provided by the appellant as to the final appearance of the glamping pods, nor have any details been provided as to works which may be required to the variously angled sloping site in order to provide level areas for their siting, or level areas for the pitching of tents. However, the appellant has variously described characteristics of the glamping pods which hint at their likely scale, appearance and overall visual effect.
11. The pods are described as being sufficient in size to accommodate a sleeping area, kitchen cooking area and lounge, with the LVIA suggesting an approximate size of 2.9x4m. Their likely external appearance is described as being finished in horizontal timber cladding. In addition, the appellant has described the pods as being moveable, equipped with wheels and stabilising legs which can deal with what I observed on site as varying and in places, somewhat steep, changes in levels across the site.

12. The warden's unit has been described as "*lodge style*" but no further details have been provided, beyond the size described in the LVIA as approximately 14x4.5m. In light of the sensitivity of the site and its surroundings, I do not consider it would be appropriate to control the details and ultimate effects of that structure by condition.
13. In addition, the proposed site layout drawing suggests that large areas of ground under and around the location for the glamping pods would require planting to "*make good disturbed areas*".
14. I do not consider it necessary for me to resolve the issue as to whether the siting of any glamping units proposed is operational development controlled by the planning acts, or whether they would be caravans as defined under separate legislation. Either way it is the overall use, the effect of that use and the likely effects of works required to facilitate it, on the character and appearance of the area which is before me and as such, appropriate for me to consider. Given that, in light of the totality of the evidence from the appellant regarding the proposal, it seems clear to me that it would have substantial visual effects on the site and surroundings.
15. In addition to the specific effects of the elements of the development set out in the appeal, there are also unspecified and essentially unknowable likely visual effects from the proposed camping use on the site. These include, but would not be limited to the amount of the site to be used for the pitching of tents, the degree of paraphernalia associated with that camping use, and the amount and location of car parking for the camping use in addition to that required for the glamping pods.
16. The details of the proposal already made clear are likely, in my view, to cause unacceptable harm to the character and appearance of the area. The lack of detail around certain specific elements of the proposal, combined with the sensitivity of site, and the weight of third-party objections combine to add further, unacceptable harm to the effect of the proposal on the character and appearance of the area.
17. The appellant suggests, in their addendum Landscape and Visual Impact Assessment (LVIA), that the appeal site has a rural character of no more than local value, capable of absorbing a low-level and low-density leisure development. I also note the requirements in the National Planning Policy Framework (the Framework) around landscape designation and protection. The site clearly has a local value, and to my mind this value is reinforced by the weight of third-party representations to that effect.
18. I also note the criticism by the appellant that the Council reached a decision on this matter without the use of a specialised professional. Whilst the appellant has chosen to employ a Landscape Architect to make their case, there is no compulsion for the Council to do the same. This matter is one which involves a degree of subjective judgement, and to my mind this is indeed clear from the conclusions of that LVIA, where a degree of subjective judgement has been applied to the policy and factual conclusions of the report.
19. Informed by the evidence of all parties including the experts appointed by the appellant, third-parties and by my observations and experiences during my site visit, I have carried out the same exercise in reaching my decision; applying a degree of subjective planning judgement.

20. As a result of all of the above, I find that the visual effects of the proposal would significantly, and in my view, demonstrably harmfully alter the character and appearance both of the site, and the area around it. Taking all of the above together, I find that the proposal would cause significant and substantial harm to the character and appearance of the area. This would conflict with Policies 3, 21 and 25 of the North Northamptonshire Joint Core Strategy (the JCS) which, amongst other things, seek to ensure development respects landscape character, and balance support for tourism related development with other interests. The proposal would also conflict with guidance in the Framework around the conserving and enhancing the natural environment.

Nature conservation interests

21. The evidence of the appellant agrees with the fundamental position of the Council that the site is host to a number of reptile species for which avoidance, mitigation or compensation would be required in order for the development to proceed. This position is consistent with the requirements of the JCS policies and indeed, the intention of the Framework to conserve and enhance the natural environment.
22. The proposal includes mitigation and recommendations intended to ensure that species and their habitats are protected during the carrying out of the development, alternative habitat provision is made and that this is protected during the use of the site. I note that it is intended to separate the dedicated receptor area, annotated as “grazed” on the drawings, by hard and soft landscaping to prevent human use.
23. However, I find it unlikely that the proposal would succeed in controlling and wholly preventing access to the receptor area. To my mind, the particular layout of the site, including the location of the receptor area between the functional parts of the site, the road, gates and the facilities at Fineshade Wood are all likely to put pressure for access to and through that area which would be difficult, if not impossible for the appellant, and any site warden to control and manage. This pressure would be to the significant detriment of its value and function as a receptor area.
24. More broadly, it is clear that in comparison to the size of the site as a whole, which is currently host to those reptile species, the receptor area is relatively small. In addition, the receptor area would only be connected to other off-site habitats by a corridor of existing grassland and the existing road verge. As set out elsewhere, the substantial portion of the rest of the site would be used for glamping pods, activity immediately associated with them, an unknown amount of camping and associated activity, as well as the access track, parking area and warden units. As a result, I agree with the conclusions of the Council’s ecologist that the species within the receptor area would still be subject to disturbance by the proposal.
25. I also note the criticism by Natural England of the evidence base supporting the proposal, as well as their concerns over survey timings, all of which lead them to question whether or not that evidence supports the conclusions set out in the 2018 Preliminary Ecological Appraisal and the 2020 Ecology Assessment.
26. Despite the appellant’s parsing of the specific requirements of Policy 4 of the JCS, its overarching aim, consistent with that of the Framework is a net gain in biodiversity, achieved through the measures set out in that policy.

27. In light of all of the above, in my opinion, although the proposal does provide alternative green infrastructure, and includes measures to manage what habitat remains, I cannot be sure that the proposal as a whole, specifically its direct effects, mitigation measures and long-term effects would be compatible with the nature conservation interests of the site. The proposal would therefore be contrary to the requirements of Policy 4 of the JCS to deliver a biodiversity net gain and contrary to guidance in the Framework which seeks to conserve and enhance the natural environment.

Listed building

28. As noted above, Top Lodge, the former farmhouse on the site is Grade II listed. It sits at the edge of the Fineshade Wood complex, and faces out across the appeal site, albeit somewhat away from the proposed location of the glamping pods. The buildings around it and formerly associated with it are curtilage-listed.

29. The orientation and arrangement of the main listed building, and indeed, the curtilage listed buildings now in leisure use all have a close spatial relationship to the appeal site. To my mind, having experienced those buildings, the site and the wider area, its open and undeveloped character and appearance, explored in more detail above, plays a central role in the agricultural and rural setting of the listed buildings and by extension, their significance as designated heritage assets.

30. Irrespective of the particular layout proposed, the character, appearance and role of the appeal site, which I have found is an important part of the setting of the listed building would fundamentally change as a result of the proposal. Given the importance I have found of the site in its current condition to the setting of the listed buildings, I consider that the proposal would have a negative effect on the setting of the listed building. The substantial uncertainty over the actual form, appearance and effect of the development proposed adds to my concerns on this matter.

31. In reaching this conclusion, I note the comments in the Heritage Statement, and the consideration in it of views to and from Top Lodge and the appeal site, notably that part where the glamping pods are to be installed. However, I find that it is not simply the location of the pods on the site and any intervisibility which would affect the setting and significance of the listed building. To my mind, the whole site and its established character and appearance make such an important contribution to the setting and significance of the listed building that the proposal as a whole, and its effect on the site and the surroundings would have a harmful, negative effect on the setting of the listed buildings.

32. Having given great weight to the conservation of the listed buildings as a heritage asset, I find that the proposal, by virtue of the harm it would cause to their setting, would represent less than substantial harm to their significance as heritage assets.

33. The Framework requires that such harm be weighed against the public benefits of the proposal. Whilst I accept that the potential economic benefits arising from tourism related development would be public benefits of the proposal, I find that these would be modest, and do not consider that they would outweigh the harm I have found to the significance of the heritage asset. For the same reasons, the proposal would not preserve the setting of the building.

34. As a result, the proposal would conflict with Policies 2 and 21(d) of the JCS, which seek, amongst other things, to protect, preserve and enhance the historic environment, as well as supporting tourism and recreation development which strikes an appropriate balance between it and heritage interests.
35. The proposal would also conflict with guidance in the Framework around conserving and enhancing the historic environment, and my conclusions on this matter alone provide a clear reason for refusing the development proposed.

Highway safety

36. The amount and range of signage along Top Lodge Road, which links the site to the wider highway network via an at-grade junction with the A43 makes it plain that the effects of unauthorised parking, combined with the existing width, condition and intensity of use of the road, on highway safety are a serious issue. I do not therefore doubt that there is an existing issue, and I also accept that it is not the role of a proposal to solve existing problems.
37. Nevertheless, that is the existing highway safety context to the proposal.
38. Given that and having had regard to the evidence of all parties and my observations on site, I must agree with the opinions of the Council that it is not appropriate to intensify the use of the access road and junctions through the addition of four vehicle movements per hour, given the current scale of use and the existing conditions on that road.
39. I note the comparisons between the likely trip generation from the proposals and the existing activities on the site, but am not convinced that such comparisons offer support for the appeal proposal as they are existing trips which already contribute to the existing context. At present, it appears that the highway safety context to the site is considered somewhat unsafe and sub-optimal by the Council and the Highway Authority.
40. I am not persuaded that mitigating the effects of the appeal proposal, that is, intensifying the use of the access road but implementing measures to restore it back to the current position would therefore provide safe and convenient access to the site for its users and provide safe and convenient access to the wider site for existing users. I also note the outstanding concerns of the Highway Authority around providing additional passing bays which may improve the situation in theory, but, even accepting that enforcement lies outside the planning regime, are unlikely to in practice given the current (mis)use of the existing passing bays.
41. I therefore find that notwithstanding the acceptability of the site access itself, the proposal as a whole would not be provided with safe and convenient access, owing to likely conditions along Top Lodge Road. This would conflict with Policy 8b of the JCS and guidance in the Framework, all of which seek, amongst other things, to ensure that access to development is safe and convenient, and there is no unacceptable impact on highway safety.

Other Matters

42. I note the concerns of the appellant around whether or not the decision of the Council was made in accordance with their Development Management Charter. Having had regard to their comments, the decision of the Council and the Procedural Guide: Planning appeals - England, I am satisfied that no prejudice has arisen in this process as a result and the matter is neither for me to resolve nor determinative in this appeal.

Planning Balance

43. I accept that development of the sort proposed in this appeal could have economic benefits in terms of tourism spend. Such benefits are clearly demonstrated by the existing activities at and around Fineshade Wood. However, as I have set out above, their visual effects are very well contained, much more so than the likely effects of the appeal proposal. Similarly, those existing activities do not harm habitats, are compatible with and established in the setting of the listed buildings, and their highway safety effects are already on the cusp of acceptability.
44. As a result, whilst I do not disagree that the principle of tourism and leisure related development in this area is consistent with the development plan, the details of this particular proposal, and the likely effects of it, are not.
45. I therefore find that the modest benefits of the proposal would be significantly and demonstrably outweighed by the harms and adverse impacts I have found.

Conclusion

46. For the reasons given above I conclude that the proposal conflicts with the development plan. Furthermore, I have found that whilst there are material considerations which weigh in favour of the proposal, they are not of such weight to indicate that a decision be taken other than in accordance with the development plan.
47. The appeal should therefore be dismissed.

S Dean

INSPECTOR