



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

CHERWELL DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

Appeal by Great Lakes UK Limited against Cherwell District Council's refusal to grant planning permission for the redevelopment of part of golf course to provide new leisure resort (sui generis) incorporating waterpark, family entertainment centre, hotel, conferencing facilities and restaurants with associated access, parking and landscaping at land to the east of M40 and south of A4095 Chesterton Bicester Oxfordshire

Appellant : Great Lakes UK Limited

Appeal Site : Land to east of the M40 and south of the A4095, Chesterton, Bicester, Oxfordshire, OX26 1TH

Appellant's Agent : DP9 Limited

LPA Reference : 19/02550/F

Planning Inspectorate Reference : APP/C3105/W/20/3259189

PLANNING PROOF APPENDICES

of

ANDREW KEVIN BATESON

BSc (Hons) MRTPI

Team Leader, Major Developments, Cherwell District Council

APPENDICES

Appendix A – Annotated aerial image of appeal site and its surroundings

Appendix B – Decision Notices

Appendix C – Appeal Decisions of Relevance

Appendix D – Consistency of saved 1996 Local Plan Policies with NPPF

Appendix E – Relevant Development Plan Policies

Appendix F – Annotated aerial image showing suggested Golf Course revised layout

Appendix A – Annotated aerial image of appeal site & its surroundings

The extent of the proposed buildings, car parks and service yards are highlighted red



Appendix B – Decision Notices

Refer to Core Documents

Appendix C – Appeal Decisions of Relevance

Chesterton site:



Appeal Decision

Hearing held on 15 December 2015

Site visit made on 15 December 2015

by Sara Morgan LLB (Hons) MA Solicitor (Non-practising)

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

Decision date: 11 February 2016

Appeal Ref: APP/C3105/W/15/3130576

Land north of Green Lane and east of The Hale, Chesterton, Oxfordshire

- 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 Philippa and Georgina Pain against the decision of Cherwell District Council.
 - The application Ref 15/00454/OUT, dated 5 March 2015, was refused by notice dated 12 June 2015.
 - The development proposed is application for outline planning permission for up to 51 dwellings with vehicular access from The Hale, together with public open space, and surface water retention pond and associated infrastructure. All matters other than the main site access reserved.
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Decision

1. The appeal is dismissed.

Preliminary

2. The application was in outline, with all matters apart from main site access reserved for future determination.
 3. The Council's third reason for refusal related to the absence of an undertaking under section 106 to secure affordable housing and to mitigate effects on local community infrastructure. The appellants have now submitted a completed undertaking, the contents of which have been agreed with the District Council and Oxfordshire County Council.
 4. The undertaking appears not to include a covenant by the appellants to comply with the covenants in the Third Schedule, which casts some doubt as to whether those covenants would be enforceable. However, that is clearly a drafting error which could have been rectified if the development was acceptable in all other respects. Subject to that drafting issue, the undertaking would overcome the third reason for refusal.
 5. The matters which the undertaking seeks to secure are the provision, laying out and transfer of public open space within the development and the payment of contributions towards its maintenance; payment of contributions towards the provision or improvement of community facilities at Chesterton Village Hall; the provision of affordable housing in accordance with requirements of the development plan; payments to Oxfordshire County Council of contributions towards the improvement or extension of Chesterton Primary School and the cost of a new secondary school at Bicester; and the payment of a contribution
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towards the costs of making a traffic regulation order and constructing a cycleway.

6. I am satisfied that the provisions of the undertaking satisfy the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and in the National Planning Policy Framework ("the Framework"), in that the obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. In addition, it was confirmed at the hearing that the contributions intended to be secured by the undertaking would not be affected by the restrictions on the pooling of contributions contained in Regulation 123(3) of the 2010 Regulations. I shall therefore take the contents of the obligation into account in reaching my decision.

Main Issues

7. The main issues are:
- (i) Whether the Council can demonstrate a five-year housing land supply.
 - (ii) Whether the development would accord with development plan policy relating to the supply of housing.
 - (iii) The effect of the development on the setting of Chesterton and on the character and appearance of the surrounding area.
 - (iv) Whether the development would amount to sustainable development.

Reasons

Housing land supply

8. The appellants originally argued that the Council could not demonstrate a five-year supply of deliverable housing sites, as required by paragraph 47 of the National Planning Policy Framework (the Framework). This was on the basis, it was argued, that the Council in calculating its supply incorporated a buffer of 5% and not the 20% necessary in cases of persistent under-delivery of housing.
9. However, in recent appeal decisions¹ the Secretary of State and a colleague Inspector have both concluded that the Council can demonstrate a five year housing land supply consistent with the policies in the Cherwell Local Plan 2011 – 2031 Part 1 (the 2015 LP). There is no evidence before me to persuade me to reach a different conclusion from the Secretary of State and my colleague Inspector. Indeed, the Council's 2015 Annual Monitoring Report (AMR), approved after the hearing on 4 January 2016, shows a slight increase in supply, to 5.3 years from the 5.1 years reported in the previous AMR.

Development plan policy

10. When the Council made its decision on the appeal application the development plan included saved policies of the Cherwell Local Plan 1996 (the 1996 LP). In June 2015, the Council adopted the 2015 LP. This has replaced many of the policies relied on in the Council's reasons for refusal, although some saved policies of the 1996 LP remain extant and relevant.

¹ APP/C3105/W/14/3001612 27 August 2015; APP/C3105/A/14/2226552 7 December 2015

11. The 2015 LP strategy is to meet the district's housing needs by concentrating development on the two towns of Bicester and Banbury and on a small number of strategic sites outside those towns. This is reflected in policies BSC 1, which sets out the overall housing provision for the district, and in policies Villages 1 and 2, which sets out housing numbers to be provided in the villages of the district. The Local Plan Inspector noted in his report that the aim of the strategy is to alter the local pattern of housing growth, as a disproportionate percentage has taken place in the smaller settlements, adding to commuting by car and congestion on the road network at peak hours. He endorsed this strategy as being the most sustainable strategy for the district, reflecting the guidance in the Framework².
12. As far as the rural area is concerned, policy Villages 1 categorises villages into service villages (Category A), satellite villages and all other villages. Policy Villages 2 provides that "a total of 750 homes" will be delivered at Category A villages from 1 April 2014 until 2031 in addition to small site windfalls (ie sites of less than 10 dwellings). Chesterton is a Category A village.
13. The Local Plan Inspector referred in his report to "around 750 homes in total", and clearly the 750 figure is not an absolute maximum. But I agree with the Inspector who determined an appeal relating to land off Lince Lane, Kirtlington³ that any significant increase above 750 could lead to unconstrained growth which would result in non-compliance with the 2015 LP strategy for rebalancing housing growth away from the villages and rural areas. The use of the figure of 750 in the policy must have some form of constraining effect on total numbers, otherwise the policy would be meaningless in terms of its contribution towards the overall strategy of the Plan.
14. The position at the time of the Hearing was that 571 dwellings out of the 750 were anticipated to come forward over the next 5 years, leaving 179 to be provided over the whole of the remainder of the plan period. There is no phasing requirement in policy Villages 2, but the strategy in the 2015 LP is for the provision of sustainable development over the whole of the plan period and the whole of the district. If disproportionate numbers of dwellings are permitted in any one settlement, then other settlements where housing sites have yet to be identified may not be able to meet their needs, including affordable housing needs, without undermining the local plan strategy.
15. The Secretary of State in a recent decision relating to land at Sibford Road Hook Norton has considered policy Villages 2. The Secretary of State noted that there was no restriction on the proportion of the 750 dwellings to be provided in any one village, or any phasing provision. He concluded that it would be acceptable for Hook Norton to provide a relatively larger share of the 750 dwellings than other Category A villages, on the basis of its relatively sustainable location⁴.
16. However, Hook Norton is a far larger village than Chesterton, and appears to have a somewhat wider range of facilities. The Secretary of State's conclusions relating to Hook Norton cannot be read across to apply also to Chesterton, given the significant differences between those two settlements. Indeed, the implication of his conclusion with regard to Hook Norton is that some other

² Para 212 of Report on the Examination into the Cherwell Local Plan 9 June 2015

³ APP/C3105/W/14/3001612

⁴ APP/C3105/A/14/2226552 at paragraph 12 of the decision.

Category A villages would provide a relatively smaller share of the 750 dwellings. That is consistent with the view of the Kirtlington Inspector that the size of the village in question in relation to others is a factor to take into account in the distribution of development. I see no reason to disagree with that view.

17. If the 750 dwellings required by Villages 2 were to be distributed across the Category A villages pro rata on the basis of population, only 15 dwellings would be required in Chesterton. But in fact Chesterton is already committed to provide 45 dwellings, which have been approved in principle subject to a section 106 undertaking being completed. These will be on land immediately to the north of the appeal site, now known as The Paddocks. If the appeal proposal were permitted as well, then 12% of the 750 district wide total would be provided in one relatively small village. This would be disproportionate.
18. The development at The Paddocks is in addition to 44 dwellings approved on appeal⁵ on land off Green Lane in 2013, which do not count towards the 750. That development is in the course of construction. Together with the developments already permitted, if the appeal proposal were to be allowed there would be a significant increase in the population of the village over a short timescale.
19. Chesterton has a limited range of facilities within the village itself. These include a primary school and nursery, a public house, a village hall and playing fields, and a bus service (25/25A). There are very limited employment opportunities, and most or all of those who live in the village would have to travel to work, to do their shopping and to access most public services.
20. Although the edge of the Bicester urban area is reasonably close to the village, roads are not pedestrian or cycle friendly due to their width and the traffic using them, there are no footways, and consequently cycling or walking to any part of Bicester, including the newly opened park and ride facility just off the A41, is unlikely to be a realistic option for most people.
21. Even as it is, the bus service is very limited, with buses running towards Bicester every 2 hours from mid-morning. There does not appear to be a travel to work service into Bicester. There are more frequent services to Oxford, an hour's ride away, in the early morning, and travelling to work in Oxford and back by bus appears to be possible, but during the day the buses revert to being 2-hourly.
22. The bus service is subsidised and not viable without subsidy. There appears to be a strong possibility that the subsidy from Oxfordshire County Council towards the 25 service will be withdrawn, and that would result in the village losing most of its buses. Consequently the likelihood in reality is that future residents of the development would be dependent on the private car for virtually all of their travel needs.
23. I have taken account of the conclusions of the 2009 CRAITLUS⁶ study on the overall sustainability of villages, which scores Chesterton slightly higher than Hook Norton, but that study was completed some 6 years ago. Given the current information relating to bus services I would not expect similar scores to be achieved by Chesterton now.

⁵ APP/C3105/A/12/2183183

⁶ Cherwell Rural Area Integrated Transport and Land Use Study – Halcrow Group Ltd August 2009

24. The Green Lane appeal decision was determined at a time when the now adopted 2015 LP was still emerging, and it appears that Chesterton was then being proposed for, potentially, around 22 new dwellings. The Inspector noted that a regular bus service and close proximity to Bicester contributed significantly to the village's overall sustainability rating. She also noted the scope in the submitted section 106 agreement to maintain and/or improve bus services. She found insufficient grounds for concluding that Chesterton was not a sustainable location for 44 additional dwellings.
25. The position now is that, whilst the proximity of the village to Bicester reduces the *length* of journeys to most facilities, on the basis of the current highly infrequent bus services those journeys are likely to be made by car. That likelihood will be increased if, as appears probable, the current subsidy is withdrawn. This leads me now to conclude that Chesterton would not be a sustainable location for the scale of new development being proposed in this appeal, which of course is additional to that approved at Green Lane, as well as The Paddocks.
26. My overall conclusion on this issue, for these reasons, is that the appeal development would conflict with the overall strategy of the 2015 LP for the provision and location of housing. It would also conflict with policy ESD 1 of the 2015 LP, which requires the impact of development on climate change to be mitigated by, amongst other things, delivering development that seeks to reduce the need to travel and which encourages sustainable travel options.

Character and appearance

27. The appeal site is an arable field, roughly triangular in shape, bounded on one side by The Hale, on one side by Green Lane and an existing cul-de-sac development, and on a third side by The Paddocks. The Paddocks is currently undeveloped, but will be the site of up to 45 dwellings. There was at the time of my visit a substantial hedgerow between The Paddocks and the appeal site.
28. The appellant has described the proposal as "rounding off", but that description does not, in my view, reflect the extent to which the development would extend built form into the countryside. Once The Paddocks has been constructed, the north-eastern boundary of the site would abut development. But the other boundaries would in the main be Green Lane and The Hale, both of which have the character of country roads where they adjoin the appeal site.
29. The site has no specific designation in either landscape or environmental terms, but it is at present an arable field, and clearly visually part of the countryside. It is typical in character of the flat landscape which surrounds the village. Because of its open nature it provides a rural and agricultural setting to the village, forming a rural foreground to views from The Hale, over what is at present an open boundary with very little boundary planting to obstruct views. Even when the development of The Paddocks has taken place, it would continue if undeveloped to provide a rural setting to the village.
30. The Hale is, in character, very rural despite the amount of traffic using it at present. On the other side of The Hale is a golf course, but this is itself rural in character despite its somewhat manicured appearance. The lane is only just wide enough in places for two vehicles to pass, and has narrow verges. Typically of a country lane, it has no footway. All of these elements reinforce its rural character.

31. The development would introduce a major change to the character of The Hale. At least in the short to medium term, the views across the open field from the lane would become views of a suburban development. However carefully the development was designed and landscaped, its appearance would be suburban. Whilst boundary planting could, in time, lessen the visual impact of the development, it would not conceal the existence of the development, and indeed the openness of the field and the part that openness plays in the setting of Chesterton would also be lost.
32. The site access needed to provide safe access to the development would also have a visually suburbanising effect, as would the new footway along The Hale required by the highways authority to provide a safe pedestrian access to the village. The lane would no longer provide a rural approach to the village. The existing pleasant rural character of The Hale, and the contribution the site plays in the rural setting of the village, would be lost.
33. The development of The Paddocks does not form any sort of precedent for the development of this site. Policy Villages 2 requires new housing in villages, and it is likely that many of the schemes coming forward will involve development of agricultural land and a significant change in character. But The Paddocks is closer to existing development and is a more visually contained site. It was also permitted at a time when the Council could not demonstrate a 5 year supply of housing land and before the 2015 LP was adopted, so that the policy context, and the weight to be given to the provision of additional housing, was different.
34. Even so, development at The Paddocks, with its associated highway works, will have a suburbanising effect on the northern end of The Hale. Adding development on the appeal site would result in virtually the whole length of The Hale becoming suburbanised, to the significant detriment of its rural character. There is no justification in housing land supply terms for this harm. In addition, in the case of the appeal site, the visual harm would be greater because the site is further from the main part of the village and protrudes to a greater extent into the countryside. The harm would be limited to short or medium distance views, as there are no long-distance views of the site, but nonetheless in those short to medium views the harm would be noticeable and material.
35. I conclude that the development would have a significantly harmful effect on the setting of Chesterton and on the rural character and appearance of the area. It would conflict with saved policy C8 of the 1996 LP, which seeks to avoid sporadic development in the open countryside. This policy is still relevant as it seeks to resist unnecessary development in the countryside, and it has not been rendered out of date by housing land supply considerations. There would also be conflict with policy ESD 13 of the 2015 LP, because it would cause undue visual intrusion into the open countryside, be inconsistent with local character and harm the setting of Chesterton.

Whether the development would amount to sustainable development

36. The Framework contains a presumption in favour of sustainable development. That requires development that accords with the development plan to be approved without delay. I have found that this development would not accord with various provisions of the development plan, as well as with the overall housing strategy in the 2015 LP. That document is very recently adopted, and

up to date. The Council is able to demonstrate a five-year supply of housing, and so its policies for the supply of housing cannot be said to be out of date. Consequently, the final bullet point of the Framework's paragraph 14 does not apply.

37. The Framework identifies three dimensions to sustainable development: economic, social and environmental. Dealing first with the economic role, allowing the development would bring more dwellings forward, which would deliver some economic and employment benefits, as well as New Homes Bonus funding for the Council and Council tax revenue. It would also accord with the intention of paragraph 47 of the Framework to boost significantly the supply of housing.
38. But my conclusion is that the site is not particularly well located for housing and I am not satisfied this is the right place for further development. The 2015 LP has identified and seeks to co-ordinate development requirements, including the necessary supporting infrastructure. This development would not accord with the strategy of the 2015 LP, a strategy which is very recently adopted and which the Local Plan Inspector considered was fully consistent with national guidance in the Framework.
39. Turning to the social aspect of sustainability, whilst the additional housing would contribute towards the need for housing in the district, those needs could at present be met without developing this site. The appellants have referred to the need for Cherwell to address Oxford City's unmet housing need in the future. The Local Plan Inspector addressed this issue in his Report in considering the duty to co-operate, and noted that there was as yet no final agreement on how or where the new housing needs of Oxford City would be met. There is no evidence before me as to the extent of that need or how it might be addressed, and it would be speculative and premature to regard this site as being able to meet any of that need in the absence of any such evidence.
40. The development would contribute towards the district's need for affordable housing, as 35% of the dwellings would be affordable. But according to the Council there is only a small level of need for affordable housing in Chesterton at the moment, and so the development would not be meeting the affordable housing needs of the village but of the wider district. The site's poor accessibility and lack of services means that it is a far from ideal location to perform that function. I also share the concerns of the Parish Council as to the ability of the village to absorb the large cumulative increase in population that would occur if this proposal were to be permitted as well as the other two developments already permitted or approved in principle.
41. The unilateral undertaking (if fully enforceable) would secure contributions towards public space and educational facilities, but those would merely mitigate an otherwise adverse impact from the development on local facilities. The contribution towards a speed limit on The Hale would provide a safer walking route between The Hale and Green Lane. The contribution towards making a new cycleway to link the village with the new park and ride site would assist in improving accessibility and highway safety. But accessing the park and ride site from the village by foot or cycle would still require the use of roads with no footways for a considerable distance, which would be likely to deter many users. The benefits would thus be limited.

42. On the environmental dimension of sustainability, the development would have a harmful effect on the rural character of the countryside. There would be some benefits to biodiversity from the proposed pond and linear swales and additional planting. But the likely reliance of occupiers on the private car for their travel needs would have environmental disbenefits.
43. Taking all these considerations into account, I conclude that the harm the development would cause would significantly outweigh the benefits, and that it would not amount to sustainable development as envisaged in the Framework.
44. I have taken all other matters raised in the representations and at the hearing into account, but none of them lead me to alter my conclusion that the appeal should be dismissed.

Overall conclusions

45. For the reasons given above I conclude that the appeal should be dismissed.

Sara Morgan

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Ms Clare O'Hanlon Carter Jonas, agent for the appellants

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Parry Planning Officer, Cherwell District Council

INTERESTED PERSONS:

Mr Richard Oliver Oxfordshire County Council
Mr Philip Clarke Chairman, Chesterton Parish Council
Mr Tony Thompson Vice-chairman, Chesterton Parish Council

DOCUMENTS

- 1 Council's letters of notification and list of persons notified
- 2 Policies BSC1 and ESD1 Cherwell Local Plan 2015
- 3 Appeal decision ref APP/C3105/A/14/2226552 Land at Sibford Road Hook Norton
- 4 Aerial photograph showing location of proposed cycle link to Park and Ride site
- 5 Extract from Halcrow Final Report Cherwell Rural Area Integrated Transport and Land Use Study
- 6 Bus timetables for routes 25 and 25A
- 7 Cherwell Local Plan 2015 Extract 5.2 Key Policies Map: Bicester
- 8 Unsigned planning obligation relating to the appeal site
- 9 Chesterton Primary School Pupil Forecasts
- 10 Oxfordshire CC briefing note re site access arrangements
- 11 Suggested rewording of condition 11 proposed by the Council
- 12 Condition relating to refuse storage produced by the Council after the close of the hearing
- 13 Completed unilateral undertaking dated 21 December 2015 produced by the appellants after the close of the hearing
- 14 Annual Monitoring Report 2015 approved by the Council after the hearing

Appeal Decision

Site visit made on 10 September 2020

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2020

Appeal Ref: APP/V0728/W/19/3243156

Land East of Saltburn Lane, Saltburn by the Sea, Easting 466901; Northing 521208

- 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 Redcar & Cleveland Borough Council.
 - The application Ref R/2019/0259/FFM, dated 18 April 2019, was refused by notice dated 28 November 2019.
 - The development proposed is development of a camping and caravanning site for a total of 170 no. pitches, two no. amenity blocks, a reception/shop/café building, a recycling area, a children's play area, waste disposal points, a motorhome water point, site manager's pitch, a tractor shed, parking provisions and internal site access roads, site access off Saltburn Lane including site access/egress barriers, a pedestrian footpath link to the north, landscaping and all other associated works.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant has requested that I consider an alternative scheme¹ in the event that I find that the appeal scheme should be dismissed. The appellant designed the alternative scheme to seek to overcome objections raised during the determination of the planning application by the Council. The alternative scheme is for a smaller scale proposal to provide 50 all-weather pitches, a reception and amenity block, internal site roads and holiday site manager's pitch, with a pedestrian link to the beach. The information before me in respect of the alternative scheme is limited and the appellants technical documentation in support of the original scheme has not been updated in regard to the alternative scheme.
3. I have considered this request in light of the Wheatcroft Judgement². The Wheatcroft Judgement supports the consideration at appeal of a revised scheme which is substantially the same as that originally proposed. However, it is necessary to ensure that those who should have been consulted on the changed development are not deprived of an opportunity of consultation.
4. The alternative scheme is of a significantly smaller scale of development with a different site layout to that proposed originally. It is not in my view

¹ Drawing No. SALT-PS19-011 Rev C: Concept Drawing Site Layout.

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

substantially the same as that originally proposed. As it has not been subject to formal consultation, I am concerned that the rights of interested parties would be prejudiced if I were to consider the alternative scheme as part of the appeal. My decision is therefore based on the scheme determined by the Council.

5. The Council has confirmed in their appeal statement that the Teesmouth and Cleveland Coast potential Special Protection Area (SPA) was approved by Ministers on 16 January 2020. The appellant has had the opportunity to make comments on the implications of this for their case at the final comments stage of the appeal process.

Main Issues

6. The Council refused the application for 5 reasons, from which I have identified the following main issues for the appeal. These are the effect of the proposed development on:
 - the biodiversity of the area, with particular regard to the Teesmouth and Cleveland Coast SPA, Ramsar and SSSI, and the Saltburn Gill SSSI;
 - the character and appearance of the area, with particular regard to the North Yorkshire and Cleveland Heritage Coast; and
 - the significance of designated heritage assets having regard to their settings.

Reasons

Biodiversity

7. The appellant in their ecological appraisal identifies that the appeal site is about 3.7 kilometres from a European site, the Teesmouth and Cleveland Coast SPA and Ramsar site, and SSSI. The qualifying features of the SPA are non-breeding populations of Knot, Little Tern, Redshank, Sandwich Tern and a Waterbird assemblage. The appeal site is immediately adjacent to the Saltburn Gill SSSI, which is a designated ancient woodland and the site falls within the impact risk zone for the SSSI.
8. Natural England (NE) consider that the proposal could have potential significant effects on the SPA and Ramsar site as a result of greater visitor numbers and increased recreational activity along the coast. NE advised that further information is required to determine the potential impacts on designated sites. I agree that given the scale, nature and location of the development proposed, the appeal proposal could give rise to significant effects on the designated features of the European site as a result of greater visitor numbers and increased recreational activity along the coast.
9. There are references in the appeal documentation to a Habitats Regulations Assessment (HRA) being under preparation. I note from the appellant's Ecological Position Statement however that the ecological assessment work for the scheme, including the HRA, and some survey work for protected and notable species, was not completed.
10. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') require competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where

the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects.

11. I have not been presented with robust evidence on the potential effects of the development on the European Site. There is no completed HRA to consider and no evidence regarding potential in-combination effects with other development. Whilst the appellant is agreeable to the provision of mitigation measures by way of a planning condition, the need for specific measures has not been assessed or agreed by the parties. Consequently, I have no specific details of any such measures to consider, or how these would ensure that adverse effects on the integrity of the European site would be avoided. There is a similar deficiency of robust evidence regarding the effects of the development on the Saltburn Gill SSSI and some protected and notable species, including reptiles, bats and breeding birds. Given the incomplete evidence, I cannot conclude that the mitigation measures put forward by the appellant in regard to effects on biodiversity would be effective.
12. Consequently, I am not able to establish the extent of any adverse effects on the integrity of the qualifying features of the European site, or whether such effects could be modified through mitigation. Furthermore, given the lack of robust evidence, I could not adequately complete the further stages of HRA in assessing alternatives and assessing Imperative Reasons of Overriding Public Interest. In addition, I have insufficient evidence to assess the potential effects on the Saltburn Gill SSSI. Whilst Policy N4 of the Redcar and Cleveland Local Plan 2018 (the Local Plan) expects development which leads to increased recreational disturbance of a sites interest features to contribute towards strategic mitigation measures identified in the Recreational Management Plan, it is not possible to determine whether such mitigation would be adequate to address adverse effects on the integrity of the European site.
13. I cannot conclude therefore that the appeal scheme would not give rise to unacceptable effects on the biodiversity of the area, including the Teesmouth and Cleveland Coast SPA, Ramsar and SSSI, and the Saltburn Gill SSSI. Consequently, the proposal is contrary to Local Plan Policy N4 which is concerned with protecting and enhancing the Borough's biodiversity and geological resources, and includes, amongst other things that development requiring AA will only be allowed where it can be determined through AA that the proposal would not result in adverse effects on the site's integrity, either alone or in combination with other projects. The appellant has referred me to Local Plan Policy SD4 which sets general development principles. Given the harm found, I find the appeal scheme conflicts with this policy. The proposal is also contrary to national policy for habitats and biodiversity as set out in paragraph 175 of the National Planning Policy Framework (the Framework).

Character and appearance and Heritage Coast

14. The appeal site consists of an open ridge of agricultural land sitting between the incised valley landforms of the Saltburn Gill to the east and the Valley Gardens Registered Park and Gardens to the west. To the west of, and above the Valley Gardens, is situated Saltburn by the Sea, a planned Victorian Town, which sits prominently on the edge of the elevated headland. Old Saltburn and the sea beyond are situated to the north, whilst a number of dwellings are scattered along Saltburn Lane. The character of the appeal site is derived from its countryside appearance which contributes to the rural setting of the town,

which due to its planned design and siting on the headland has a clear and abrupt edge to the urban area when viewed from the east.

15. The proposed caravan and camping site would consist of a number of elements. These include 170 pitches, several buildings, a play area and internal site roads, within 5.45 hectares of land. The site would be accessed from Saltburn Lane at its southern end via an access with barriers, where the single storey main reception, shop, car park and most ancillary facilities would be sited, with an internal access road running to the north of the site. The access road would serve all weather pitches, static caravans and glamping pitches broadly in the central area of the site and an area for touring caravans and camping towards its northern end. I have had regard to the appellants landscape strategy and how mitigation has been embedded in the scheme to seek to reduce effects on the landscape, such as through the layout of the site components outlined above.
16. The appellant has submitted a landscape and visual appraisal (LVA) in respect of the appeal scheme and a landscape report letter with the appeal. In terms of landscape character, the LVA notes that the appeal site is situated on the periphery of National Character Area (NCA) 25 North York Moors, with the adjoining NCA 23 Tees Lowlands. The Redcar and Cleveland Landscape Character Assessment includes the appeal site within the East Cleveland Plateau Landscape Tract, which is subdivided into a number of landscape units. The site is located within Landscape Unit P6 'Plateau Farmland', the key characteristics of which include a ridged landform separating Skelton Beck and Saltburn Gill, farmland and dispersed woodland blocks. Positive attributes include that parts of the unit have a 'coastal feel' with views of the coast, whilst negative attributes include intensively farmed land with low wildlife value.
17. The appeal site falls within the East Cleveland Plateau as described in the Council's Landscape Character Supplementary Planning Document (SPD). The SPD characterises the area as a broad landscape area consisting of an open, elevated coastal plateau rising towards the south to meet the North York Moors. The plateau is described as having an exposed, open rural character with large-scale farmland bordered by hedges, with a number of lanes also characterised by hedges on each side. The plateau is dissected by a complex system of deeply-incised sheltered, heavily-wooded, valleys or gills, which meet the coast at two points within this area; these are separated by higher land, where cliffs fall to wave-cut platforms at sea level. Within the SPD, the site is classified as being within a 'sensitive area' where changes in character are discouraged and the emphasis is on the retention of landscape elements.
18. The LVA concludes that the landscape of the appeal site has a high landscape sensitivity. I agree, and whilst I have had regard to Saltburn by the Sea being a seaside resort, where tourism development would be anticipated, I consider that the appeal scheme, through the introduction of a caravanning and camping site, would give rise to a significant change in the character of the appeal site. This would be despite existing landscape features, such as hedges and trees being retained, and the site being managed in a way to minimise night-time noise. Consequently, the proposal would give rise to significant harm to the character of the landscape and landscape setting of the town due to its incongruous appearance. Whilst the proposed landscaping would have some effect in mitigating effects over time, this would not adequately mitigate

the effects of the appeal scheme on landscape character, which would experience significant change as a result of the proposed land use.

19. The LVA has assessed the potential effects of the scheme on a number of potential receptors. Whilst I agree that there would be limited effects on certain receptors, for others, the scheme would give rise to significant adverse effects. As I saw during my site visit, the appeal site is particularly visible from significant stretches of the England Coast Path to the east, being seen sitting beneath the edge of Saltburn by the Sea as you approach the town. Consequently, the appeal scheme would give rise to an appreciable change in the setting of the town. I agree that users of the route would have a very high sensitivity to change and susceptibility, and I noted that the proposed development would be visible for walkers over a prolonged period when walking along the Coast Path. Whilst the proposed landscaping would have some mitigating effects as it matures, and having regard to the proposed embedded mitigation, I have not been convinced that the level of effect on users of the route would fall below major adverse during the lifetime of the scheme.
20. Additionally, I agree with the conclusions of the LVA that major adverse effects would occur for observers on Marine Parade in Saltburn by the Sea, but do not agree that the visual effects would reduce significantly in the longer term, due to the differences in elevation between the two. The visual effects from Saltburn Pier would be mitigated to a degree as the landscaping matures, but I agree that they would remain moderate/minor adverse. In terms of residential receptors, the LVA identifies that major/moderate adverse visual effects would occur for the residential receptors of the White House Bungalow and Cliffden Court, falling to moderate adverse in the longer term. Whilst the Coastguard Cottages have not been assessed as a residential receptor, I consider that the visual effects at the Coastguard Cottages would be major adverse as per the England Coast Path.
21. The appeal scheme would therefore, having had regard to the landscape strategy and embedded mitigation proposed, have in terms of the LVA major adverse effects on both landscape character and a number of key visual receptors.
22. The appeal site is situated in the defined North Yorkshire and Cleveland Heritage Coast. The Framework in paragraph 170 includes, amongst other things, that planning decisions should contribute to and enhance the natural and local environment by maintaining the character of the undeveloped coast, while improving public access to it where appropriate. In paragraph 173, the Framework includes that within areas defined as Heritage Coast, planning decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character. The Framework in footnote 55 states that whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. The question of whether a development proposal constitutes major development in the Heritage Coast is one therefore, for the exercise of planning judgement.

23. The Heritage Coast falls within the area identified as a sensitive landscape in the SPD, The proposed tourism development, due to its nature and scale, would have a significant adverse impact on the purposes for which the area has been defined and would erode the openness of the landscape and harm its legibility. I find that the appeal scheme represents major development in the Heritage Coast. Furthermore, the nature of the proposed development is such that it would appear incongruous within the exposed open rural character of the area. It is not therefore compatible with the special character of the Heritage Coast.
24. Whilst I agree in principle with the statement in the LVA that the development of some forms of tourism development within green field locations is unavoidable, it is nevertheless necessary that development takes place in the right places where effects on the landscape would be acceptable.
25. Local Plan Policy N1 seeks to protect the borough's landscapes and includes amongst other things that particular priority will be given to protecting and enhancing the landscape character and natural beauty of the North Yorkshire and Cleveland Heritage Coast. This is by permitting development only where it is essential development which for operational reasons cannot be located outside the Heritage Coast; or small-scale leisure or tourism development consistent with the conservation of the special qualities of the Heritage Coast; or suitably scaled extensions and alterations to existing buildings. Any development which is acceptable will be required to be designed and sited so as to cause no harm to the special character of the Heritage Coast. The proposal, due to the size of the site and having regard to the extent of development proposed, should not in my view be considered as being 'small scale' and therefore is not consistent with Local Plan Policy N1.
26. The appellant has referred me to Local Plan Policy ED11 which is concerned with caravan and tourist accommodation. However, as the appeal scheme would not be adequately screened from public viewpoints, it would be contrary to this policy.
27. To conclude on this matter, the appeal proposal would give rise to significant harm to the character and appearance of the area including to the North Yorkshire and Cleveland Heritage Coast. It is contrary to Local Plan Policies N1, SD4, and ED11, guidance contained in the SPD and national policy in respect of heritage coasts as set out in paragraph 173 of the Framework.

Heritage assets

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that special regard shall be had to the desirability of preserving a listed building or its setting. The Council refer to one listed building in their reasons for refusal, the listed building situated within the Valley Gardens, which is the Grade II listed Albert Memorial. However, in determining this appeal, I have had special regard to the preservation of listed buildings as identified in the Council's Conservation Area Appraisal (CAA), the Appellants Archaeology and Heritage Desk Based Assessment and as referenced by Historic England and other consultees and interested parties in their submissions.
29. The Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to, or loss of

significance of a designated heritage asset including from development within its setting, should require clear and convincing justification. The Framework in paragraph 196 requires that where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits.

30. The appeal site is situated immediately adjacent to the Saltburn Conservation Area (CA), which is to the west and north of the site. The CA includes the Victorian planned spa town and Old Saltburn. The significance of the CA is derived from a number of factors. Firstly, the CA encompasses a planned Victorian resort town. The town is laid out in a modified gridiron pattern sited on a broad headland, where the outer curtain wall of development encircles the more ordinary rows of terraces within the town and provides a strong edge to the built part of the town. The use of design codes in the development of the town provided some uniformity in the heights of buildings and materials used.
31. The flanking ravines, sea banks and beaches provide parks, playgrounds and pleasure grounds described in the CAA as serving as natural limits to development. The curtain walls of development are particularly prominent when approached from the east, or historically for passengers of pleasure steamers using the pier. The CA also includes the area known as Old Saltburn which predates the development of the planned town, the Sea Banks and Foreshore.
32. The Valley Gardens fall within the CA and is a Grade II listed garden, developed in the late 19th century as pleasure grounds by the Saltburn Improvement Company. The significance is derived from their development alongside that of the New Town, with the gardens following the long narrow landform of a glen, with a network of paths. Key views identified in the Register are towards the lower Promenade and the sea and towards White House Wood and Saltburn Bank. Structures include the Assembly Hall, and the Grade II listed Albert Memorial (formerly the portico of Barnard Castle railway station) and also known as the Albert Temple. The Albert Memorial derives its significance from its architectural and historic interest.
33. The grade II listed White House situated near to the appeal site across Saltburn Lane dates from c1690 and its significance is due to its historic interest, architectural detailing and association with John Andrew, a notorious 19th C smuggler.
34. There are a number of listed buildings along the northern and eastern edges of the New Town. These include the Grade II* listed Saltburn Pier and the Grade II* listed Inclined Tramway lower and upper buildings. Grade II listed buildings visible in the 'curtain wall'; of buildings from the east include Alexandra House and Railings; Kingsley House, Edward House and attached railings; Britannia Mansions and attached railings; the Zetland Hotel with terrace walls and steps; Balmoral Terrace; Tower Court and Bridge End with listed wall, piers and railings. Also visible is the Grade II listed Church of Emmanuel. These buildings derive their significance from their architectural and historic interest as part of the development of the planned town. Listed Buildings on the shore and at Old Saltburn are Beach Huts, the Mortuary at Cat Nab; The Ship Public House and the Ship House. These buildings also derive their significance from their architectural and historic interest.

35. The appeal site forms an area of open agricultural land, which runs north to south adjacent to the CA. It provides an agricultural setting to that side of the Valley Gardens and the New Town beyond, and similarly to Old Saltburn. In views into the Town, such as from the Coast Path to the east, the open appeal site is important in helping to define the clear edge of the planned town on the headland and as part of the open backdrop against which a number of listed buildings are appreciated as one approaches the town. The development of the appeal proposal which would occupy much of the ridge seen beneath the town, would be harmful to the significance of the listed buildings which form the east flank of the Town and the Church of Emmanuel, and give rise to harm to the setting of the Valley Gardens and the CA. The rural backdrop is an integral part of the setting of the designated heritage assets which contributes to their significance. The erosion of this rural setting would therefore be harmful to significance.
36. From within the Town itself, the appeal scheme would cause a significant change to the setting of the Valley Gardens, including the listed Albert Memorial, the CA and the listed buildings situated on the northern and eastern edges of the town outlined above. The appeal scheme would erode the setting of the planned town and the individual listed buildings identified through the change from open agricultural land to a tourism site, having a moderate adverse effect on the significance of the planned town as a whole and its component elements discussed above.
37. The appeal proposal would alter the settings of the White House and Old Saltburn through the introduction of tourism development, though the effect upon the White House would be minor, given the existing wall and presence of nearby modern development. The effect upon the significance of the Old Saltburn part of the CA would also be minor, and the effects on the Grade II listed Ship Inn, Ship House and Mortuary would be negligible.
38. The harm which would arise to the significance of the designated heritage assets would be less than substantial in terms of the Framework and I afford this harm great weight. The harm must be weighed against the public benefits.
39. The appellant has put forward a number of factors which they wish to have considered as benefits. The appeal scheme would provide additional tourism accommodation in the area which is promoted by the Council through its local plan policies. Local Plan Policy SD3 supports tourism development in the countryside and Policy ED9 promotes new tourism development. Holiday Parks and Campsites collectively make a significant contribution to the UK economy, and the appellant states that the appeal scheme would generate about £1.564 million per annum. The appeal scheme could also generate up to 5.8 full-time and 6.8 part-time jobs on a seasonal basis with 5.1 full-time and 1.7 part-time employees all year round. In terms of social benefits, I give some limited weight to the claimed health benefits of the scheme through encouraging walking and cycling, including a proposed footpath link to the town, and promoting healthy outdoor lifestyles and educational benefits. A number of other benefits have been suggested, such as the internal management arrangements. These factors however demonstrate a lack of harm, rather than benefit.
40. The appellant has also stated that the impacts of Covid-19 have resulted in significant changes to the Country's economy and the tourist industry both

within the UK and globally, with increases in demand for British people holidaying in the UK. Whilst this may be the case and the immediate effects of Covid-19 are here for all to see, it is too early to tell if these changes will be sustained in the longer term. Nor has it been demonstrated that the potential benefits of the scheme will have fundamentally increased, either in economic or social terms from those set out above.

41. Although the appeal scheme would bring forward some benefits, these do not outweigh the harm found to the significance of designated heritage assets which I afford great weight.
42. To conclude on this matter, the appeal proposal would give rise to unacceptable harm to the significance of designated heritage assets, contrary to Local Plan Policies HE1 which is concerned with development affecting conservation areas and Policy SD4, the Saltburn CAA (2019) and national planning policy for conserving and enhancing the historic environment as set out in chapter 16 of the Framework.

Other matters

43. In determining this appeal I have had regard to the fact that the appellant enjoys permitted development rights as set out in the Town and Country Planning (General Permitted Development Order) 1995 (as amended) and as specified in The Caravan Sites and Control of Development Act 1960. This means that they are permitted to use land for camping and caravanning without requiring planning permission. The permitted development provisions available to the appellant are such that planning permission is required for infrastructure development such as roads, hardstandings and buildings.
44. The appellant argues that the permitted development rights provide a fallback position in that planning permission is not required for them to use the site for camping and caravanning. In assessing the questions of whether there is a potential fallback position and if so, how much weight I should afford it, I shall first determine whether there is greater than a theoretical possibility that the fallback development might take place. This is a test of whether there is a "real prospect" as per *Gambone v Secretary of State for Communities and Local Government v Wolverhampton City Council*³.
45. Firstly, I have not been provided with any details or proposal for a scheme to use the appeal site as a caravanning and camping site as permitted development without any infrastructure provision, such as buildings or roads, which would enable me to compare such a scheme with that before me. The matter has only been addressed in the evidence before me in general terms. Secondly, there has been no clear indication of an intent that such a scheme may be pursued as an alternative to that before me. In this regard, I note that the appellant seeks to maintain good relationships with local planning authorities and that in establishing new sites, the Club include the use of the land within planning applications along with the infrastructure and built development. Therefore, I am not convinced that there is a realistic prospect that the appellant would use the site for caravanning and camping solely under permitted development rights and I have dealt with the appeal on that basis.

³ [2014] EWHC 952 (Admin)

46. The approach as per Gambone is to apply 2 stages, the second of which would be to ascribe weight as a material consideration should it be found that there is a real prospect of a fallback position existing. In this case, the lack of information as to what such a fallback position may involve would not enable me to apply more than minimal weight in that I would not be able to consider its potential effects against that of the appeal scheme other than in very general terms.
47. I have some sympathy with the appellant who engaged with the Council to develop the site through a Council led tendering process. Whilst I appreciate that they are frustrated and disappointed by the Council's decision on the planning application, any matters relating to the tendering process and the Council's handling of the application are properly matters for local government accountability.
48. The appellant has referred to a number of policies of the Framework and the Planning Practice Guidance to which I have had regard. These do not however lead me to a different decision. The appellant has also referred to a number of other Local Plan Policies. Whilst the appeal scheme would give rise to some economic benefits and would be consistent with a number of policies, including Local Plan Policy LS2 Coastal Area Spatial Strategy, it would however conflict with others due to the harm found. In this regard, given the harm found, I find it would conflict with Policy ED8 which promotes rural leisure and tourism developments which build upon the unique assets of the borough.
49. I have taken into account comments that the appellant is an experienced site operator, that the appeal scheme would provide affordable holiday options, would have a suitable access, and that caravan and camping sites are lacking in the area. These comments do not lead me to a different decision.
50. I have outlined the benefits of the scheme above in applying paragraph 196 of the Framework. Whilst the scheme would give rise to economic and social benefits, these do not indicate that planning permission should be granted for the development, which is in conflict with the development plan.

Conclusions

51. I have found conflict with Local Plan Policies N1, N4, SD4, ED8, ED11 and HE1 and consider that the appeal proposal through the identified conflict does not accord with the development plan as a whole. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004. I find the proposal contrary to policies for habitats sites and SSSIs, the character and appearance of the area and the Heritage Coast and designated heritage assets. Although the scheme would give rise to some economic and social benefits, these do not indicate that planning permission should be granted for the development, which is in conflict with the development plan.
52. For the above reasons and having considered all matters raised, I conclude that the appeal should be dismissed.

Philip Lewis

INSPECTOR



Appendix D – Consistency of saved 1996 Local Plan policies with the NPPF

Refer to Core Documents

Appendix E – Development Plan Policies Referred to in Proof

Refer to Core Documents

Appendix F – Annotated aerial image of the BHGS site with the Appellants suggested golf re-provision course layout

