



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 describes 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