



Appeal Decision

Hearing held on 28 May 2024

Site visit made on 28 May 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2024

Appeal Ref: APP/K2420/W/24/3337087

**Kyngs Golf and Country Club, Station Road, Market Bosworth,
Leicestershire CV13 0NP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Statue Homes Limited against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref is 23/00508/FUL.
 - The development proposed is the erection of nine single storey timber clad holiday homes with vehicle parking and associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Statue Homes Limited against Hinckley and Bosworth Borough Council. This application is the subject of a separate Decision.

Background and Main Issues

3. With regard to the Council's first reason for refusal ('RfR'), the appeal scheme was originally proposed as a standalone development for holiday homes. However, the appeal site is part of the Kyngs Golf and Country Club ('the Golf Club') which is recognised as a tourism and leisure facility in the Market Bosworth Neighbourhood Development Plan ('NDP'). Accordingly, the Council argued that a standalone holiday homes development could not be supported within a countryside location without evidence of need and justification. As such, the Council's position was that the proposal would need to be linked to the re-opening and ongoing operation of the golf course, to comply with the Development Plan, in principle.
4. Subsequent to the Council's determination of the application¹, an appeal decision² relating to a separate proposal for development of 9 holiday cabins at the Golf Club was issued. In this decision the Inspector found that: 'the principle of holiday cabins would not conflict with Policies 23 of the CS and DM4 a) of the SADMP, subject to compliance with the other requirements of those policies and the development plan as a whole. In particular, these policies include consideration of matters relating to the effect of a development on the

¹ Ref 23/00508/FUL

² APP/K2420/W/23/3315336

character and appearance of the area in the overall assessment as to whether development in the countryside should be considered sustainable.'

5. Based on the above appeal, the Council withdrew RfR1. However, the Council maintain that for economic benefits to be realised and to constitute material factor in outweighing any identified harm, there should be a link to the existing golf course use, as this fundamentally underpins the site's allocation as a tourism and leisure facility.
6. Based on the final Statement of Common Ground, the main parties have agreed the revised position in respect of RfR1. This included a condition requiring that prior to first use of the holiday homes, works to reinstate the 18-hole golf course shall be completed and this brought into use. At the Hearing, the appellant confirmed that the suggested condition was acceptable. I have also considered this and have no reason to disagree with the approach agreed between the main parties.
7. Accordingly, the main issues are: i) The effect of the proposal on the character and appearance of the area and ii) whether the proposal would result in any ecological harm.

Reasons

Character and appearance

8. This appeal relates to the Golf Club site and comprises a rectangular section of land to the north east of this site (circa 0.6 acres excluding the access track). At present the wider site is not in use but the golf course is being maintained periodically.
9. Because the appeal site lies outside of any defined settlement boundaries it is therefore within an area designated as countryside. In particular, this is situated within the Bosworth Parkland Landscape Character Area as identified in the Hinckley and Bosworth Landscape Character Assessment (2017) ('LCA'). The key characteristics include rolling farmland with gentle slopes which rise to a high point around the town of Market Bosworth, scattered trees, woodlands and smaller fields of pasture, and development limited to scattered farm buildings and historic settlements. The recreational role of the area is also highlighted, including the network of historic footpaths and the Battleline Railway.
10. The LCA identifies that the key sensitivities and values of this area include the rural character and relative sense of tranquillity. It also includes amongst the landscape strategies that the rural character of the landscape will be maintained, ensuring that development responds sensitively to the landscape context. Furthermore, recreational assets including the rights of way network will be maintained and enhanced.
11. Land associated with the Golf Club is identified in the Market Bosworth Neighbourhood Development Plan ('NDP') as Character Area A, which recognises that leisure and tourism is an important element of the town for both landscape and economy reasons. The NDP specifically references the open landscape, large wide open aspect and outdoor leisure pursuits as forming part of the defined character of Character Area A.

12. Based on my visit I acknowledge that because of the limited built forms and the green and generally natural appearance of the site and its immediate surrounds, this complements the intrinsic character and beauty of the countryside which surrounds the town. Nevertheless, I am mindful that the appeal site forms part of an existing recreation facility which benefits from a modified landscape and some existing and approved built development. Also, as already stated, subject to the reinstatement the golf course use, in principle, the appeal site is suitable for the type of development proposed.
13. Policy 23 of the Council's Local Development Framework-Core Strategy ('CS') supports holiday lodges where they meet specified criteria, one of which requires that they are of a design and at a scale which is appropriate to minimise impact and assimilate well with the character of the surrounding area with acceptable landscaping.
14. Policy DM4 of the Site Allocations and Development Management Policies DPD ('SADMP') says that development in the countryside will be considered sustainable where amongst other things, does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.
15. On my site visit, I was able to view the appeal site from several parts of the Golf Club site, surrounding area and nearby Public Rights of Way ('PRoW') some of which traverse the Golf Club site.
16. The proposed holiday homes would be in the form of lodges, located in a linear arrangement between the northern planted boundary of the Golf club site and an existing greenkeepers store, and west of an established coppice. As such, because the appeal site is contained on three sides any effects on the openness of the Golf Club site would be limited.
17. The lodges would be a single storey design with mono pitched sedum wildflower roofs. There are two different lodge types, a one bedroom unit and a 2 bedroom unit. The main difference between these is that the two bedroom units occupy a larger footprint. Externally, the lodges would incorporate timber cladding. Access to the lodges would be provided via an existing track and this is to be extended to provide access to individual lodges and associated parking spaces.
18. Based on my observations PRoW S68 and S69 are the nearest to the appeal site, which run along the southern and eastern boundaries of the site, respectively. From along PRoW S68 the lodges would be largely screened by the intervening undulating topography of the golf course and the greenkeepers store.
19. In limited views from PRoW S68 and other parts of the Golf club site, the lodges would be viewed in the context of the sizeable greenkeepers store and the expanse of the tall trees associated with the coppice. These would absorb the modest scale of the lodges. In addition, because of their simple architecture and forms, timber cladding, the lodges would have a degree of compatibility with their sylvan backdrop. Boundary treatments in the form of a timber fence and a low hedge would filter views of the development from the Golf club site, including PRoW S68. Therefore, the lodges would not appear unduly dominant.

20. The use of skids instead of foundations for the lodges would limit the degree of permanency associated with these and the proposed layout would screen part of the new access road and parking spaces from the Golf club site, including PRoW S68. These design interventions would limit the degree of urbanisation associated with the proposal. Therefore, despite incorporating a peripheral position towards the northern extent of the Golf club site, for the above reasons the proposed lodges would not be particularly dominant or obtrusive from the Golf club site, including PRoW S68.
21. PRoW S69 runs through the adjacent coppice, parallel with and close to the eastern boundary of the appeal site. Along here because of its woodland setting, the route of this PRoW is particularly secluded and tranquil. Even so, filtered views through the boundary landscaping are available towards the Golf club site. At the time of my visit because of the leaf cover on trees, its dark finish and lack of fenestration, the greenkeepers store did not appear particularly prominent.
22. The proposed lodges would be setback from PRoW S69 behind the access road and parking areas. The end elevations of the lodges facing PRoW S69 would be lower in height relative to those facing the Golf club site. Because of this arrangement their green roofs would be more apparent and likely to soften the appearance of the lodges. In addition, the elevations facing PRoW S69 are free of any fenestration and this would limit light intrusion. Whilst parked cars would be discernible, because of their transient nature and separation, in filtered views from PRoW S69, these would not be unacceptably intrusive. Also, there may be some limited opportunity for screening between the PRoW S69 and access road, which could be addressed through conditions, if the appeal succeeds.
23. Overall, although the proposal would bring some change in localised views, for the above reasons, this would be of a design and at a scale which is appropriate to minimise impact and assimilate with the character of the surrounding area. Therefore, this would not have a significantly harmful effect on the character and appearance of the area including its landscape character. As such, the proposal accords with design aims of SADMP Policy DM4 and Policy 23 of the CS and similar aims of Policy DM10 of the SADMP.
24. The proposal also accords with NDP Policy CE1, which says that all new development within Market Bosworth should be in keeping with its Character Area and NDP Policy CE5, which only permits new development where this does not cause harm to the landscape of the countryside.

Ecological implications

25. As part of the appeal a Preliminary Ecological Appraisal undertaken by Arbtech ('PEA') has been submitted. This appraisal describes the baseline ecological conditions at the site, evaluates habitats within the survey area in the context of the wider environment and describes the suitability of those habitats for notable or protected species. It identifies possible ecological constraints as a result of the proposed development and summarises the requirements for further surveys and mitigation measures.
26. In particular, the Council requested information in respect of protected species, badgers and Great Crested Newts ('GCN'). The PEA confirms that no badger setts were recorded within the site or immediate surrounding vicinity but

- recommends a precautionary working method during construction to safeguard badgers, if present.
27. However, the appeal site contains suitable habitat for GCN and other more common amphibians for shelter, foraging and hibernation. Furthermore, ponds (i.e., possible GCN breeding ponds) lie within a 500m radius of the site, many of which connect to the site via grassland habitat.
28. Notwithstanding that the proposed lodges would be on skids and therefore do not require foundations, the PEA was undertaken with knowledge of the proposal. There is also nothing to suggest that grassland and scrub would not be removed for the preparation of the ground for the siting of the lodges. Ground works are also likely to be required for parts of the access, the parking spaces and any services for the lodges. This is likely to result in the significant disturbance or loss of suitable GCN habitat (i.e. grassland and scrub). If GCN are present within the pond about 20m to the north of the site, this would constitute a loss of about 0.38ha within 100m of a potential breeding pond. In completing the rapid risk assessment published by Natural England (Natural England 2015), the PEA identifies that the proposed development produces an Amber risk score, which states: Offence Likely.
29. Accordingly, the PEA recommends that surveys will be required of any ponds within 250m of the site (where accessible) to determine the presence or absence of GCN. In the absence of such surveys I cannot rule out that the proposal would not have an adverse effect on protected species.
30. I have taken account of correspondence from Swan Ecology, who undertook an ecological appraisal for a separate planning application, at the Golf club site. Based on this, Swan Ecology advise that the whole of the Golf club site was surveyed, with the survey confirming that the appeal site had no ecological significance and no further surveys are required prior to the determination of the planning application. Subject to recommendations for precautionary measures in relation to vegetation clearance and construction phases, along with provision of ecological enhancements. Nevertheless, this ecological appraisal relates to a separate application and the full details of this are not before me. Furthermore, the Arbtech PEA specifically relates to the appeal site and proposal before me. As such, I attach greater weight to this.
31. Therefore, and notwithstanding the suggested conditions, including a management plan, it has not been clearly shown that the proposal would not harm protected species or provides suitable mitigation.
32. Consequently the proposal conflicts with Policy DM6 of the SADMP which says that site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term. The removal or damage of such features shall only be acceptable where it can be demonstrated the proposal will result in no net loss of biodiversity and where the integrity of local ecological networks can be secured. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused. This Policy is consistent with the aims of Paragraph 186 a) of the National Planning Policy Framework. I attach significant weight to such harm.

Other Matters

33. The proposal would support the Kyngs Golf and Country club as a leisure and tourism facility. This would provide short and long term economic benefits, including support for the local rural economy. The proposal will bring with it facilities to support a strong and healthy community whilst encouraging visitors to undertake trips into the surrounding countryside via the nearby network of footpaths, encouraging active and healthy lifestyles. Thereby, fulfilling a social role. Because of the site's accessibility by walking and by public transport, the appellant asserts that this would thereby reduce reliance upon the private motor vehicle. However, given the number of parking spaces associated with the proposal, I am not persuaded by this assertion.
34. However, the above benefits arising from the proposal are not sufficient to outweigh the harm I have found in respect of the second main issue and conflict with the development plan as a whole. Accordingly, the proposal also conflicts with Policy DM1 of the SADMP, which amongst other things supports planning applications that accord with the policies in the development plan.
35. I am aware that the Council has approved and also supported other proposals at the Golf club site and other holiday accommodation nearby. Even so, because of my site specific concerns in respect of the scheme before me, these other proposals do not alter my findings.

Conclusion

36. I have found that the proposal would not harm the character and appearance of the area. On the other hand, it has not been shown that the proposal would not harm protected species, for this reason and conflict with the development plan, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR

APPEARANCES

FOR THE APPELLANT

George Denny
Matthew Roe

Appellant
Marrons

FOR THE LOCAL PLANNING AUTHORITY

Matt Jedruch
Joe Fleetwood

Hinckley and Bosworth Borough Council
Hinckley and Bosworth Borough Council

THIRD PARTIES

Councillor Maureen Cook

Ward Councillor