



Appeal Decision

Site visit made on 5 October 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 19 October 2015

Appeal Ref: APP/W9500/W/15/3007950

South Moor Farm, Langdale End, Scarborough YO13 0LW

- 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 R Walker against the decision of the North York Moors National Park.
 - The application Ref NYM/2014/0819/FL, dated 3 December 2014, was refused by notice dated 26 February 2015.
 - The development proposed is change of use of land for the formation of an airstrip including 2 grass runways, storage building and pilot/restroom facilities.
-

Decision

1. The appeal is dismissed.

19 OCT 2015

Preliminary Matters

2. I note that the appellant's evidence indicates that the proposed storage building would have an area of only 175m². However, the proposed drawings indicate that this building would measure approximately 18.3m by 20.0m, which equates to some 366m². Accordingly, I have considered the proposals on this basis.

Application for costs

3. An application for costs was made by the North York Moors National Park against Mr R Walker. This application is the subject of a separate Decision.

Main Issues

4. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of local residents and the experience of visitors to the area, in terms of noise, disturbance and activity, as well as on public safety; and
 - The historic environment.

Reasons

5. The appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. In my view the starting point in the determination of the current appeal is a previous Inspector's decision in respect to another appeal against the refusal of planning permission

at the current appeal site¹. For ease of reference I refer to that decision henceforth as the 'previous appeal'.

6. I have taken this position on the basis that the previous appeal decision was made only last year and concerned proposed development which is very similar to the current appeal development. The evidence indicates that the only significant difference between the current and previous appeal proposals is in respect to the siting, size and form of the proposed storage building. Accordingly, it is primarily for me to consider whether there have been any material changes in relevant planning considerations to justify a different conclusion to that made in respect to the previous appeal.

Character and Appearance

7. Two buildings are proposed. The first is a small shed-like structure that would be used as a flight planning/reporting office. The Authority has raised no concerns regarding this aspect of the proposals and nor did the Inspector in respect to the previous appeal. Given the very limited scale of this proposed structure, I have found no reason to disagree.
8. The other proposed building would be used to house and maintain aircraft. For ease of reference I shall refer to this structure as the proposed storage building. The development considered under the previous appeal differs from the current scheme in terms of the proposed storage building in regard to several significant aspects. The current scheme proposes a pitched roof rather than a mono-pitch, its footprint would be reasonably square in contrast to the more linear form of the previous scheme and the materials now proposed are more typical of agricultural buildings in the area. The building would also be sited adjacent to an existing small group of agricultural buildings, whereas the building previously proposed would have been located some 80m from these buildings.
9. Many of these revisions, in my view, represent an improvement on the previous scheme including the materials, roof form and siting of the building. Nonetheless, it would still be a large building with only a slightly smaller footprint compared to the storage building proposed under the previous appeal. While the eaves would be a little lower, the ridge height would be substantially greater than that of the previous scheme. For these reasons, combined with its reasonably elevated proposed siting, along with its proposed aviation use, I am not persuaded that this substantial structure would be perceived as an agricultural building, or that it would be visually assimilated into its sensitive rural context. Consequently, notwithstanding the identified improvements to the design and its proposed siting adjacent to existing buildings, the proposed storage building would be a reasonably prominent and awkward addition to the landscape of this part of Dalby Forest.
10. I recognise that the proposed use would offer some benefits, including in terms of potentially supporting the existing bed and breakfast use at the farmhouse and farm diversification in general, as well as in respect to supporting tourism in the area and the local economy. However, given the scale and kind of the proposed use, these benefits would be reasonably limited compared to the harm identified. In making this assessment I have borne in mind that the two purposes of National Parks are to conserve and enhance the natural beauty,

¹ Ref: APP/W9500/A/14/2212850

wildlife and cultural heritage of the area, and to promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the public, and that where there is a conflict between the two purposes, greater weight should be attached to the conservation purpose.

11. For these reason, therefore, the proposed storage building would have a harmful effect on the character and appearance of the area. Consequently, in this regard, the appeal development would not accord with Development Policies 12 (Agriculture) and 13 (Rural Diversification) of the North Yorkshire Moors National Park Authority Local Development Framework – Core Strategy and Development Policies November 2008 (the LDF).

Living Conditions, Visitor Experience and Public Safety

12. The second of the main issues covers those matters identified in the Authority's first and third reasons for refusing planning permission. These are two of the same reasons that the Authority used when it refused planning permission for the development considered under the previous appeal. I have taken into account all of the information that has been submitted along with what I observed when I conducted my site visit and also borne in mind that the proposed development is very similar to that of the previous appeal.
13. Having done so, I have not found any significant changes in planning circumstances in regard to these matters since the previous appeal was determined. Nor have I found any other reasons that lead me to a different conclusion to that made by the previous Inspector in respect to the development's effect on living conditions, visitor experience and public safety as set out in paragraphs 4 to 12 of his decision letter.
14. On this basis therefore, in terms of noise and activity, the development currently proposed would not have a significant effect on the living conditions of local residents or the experience of visitors to the area, including users of public rights of way, or on public safety. Consequently, in these respects, there would be no undue conflict with Core Policies A (Delivering National Park Purposes and Sustainable Development) and H (Rural Economy) or Development Policies 3 (Design), 14 (Tourism and Recreation) and 23 (New Development and Transport) of the LDF.

The Historic Environment

15. The proposed development's effect on heritage assets did not form the basis for any of the reasons for refusal of the previous appeal development and nor was it identified as a main issue by the previous Inspector. However, since the previous appeal was determined there has been a significant change in the planning circumstances in that English Heritage objected to the current appeal proposals whereas it did not comment on the previous proposals. The evidence indicates that this was because English Heritage was not consulted on the previous proposals and consequently was unaware of the planning application and pursuant appeal.
16. The evidence indicates that English Heritage's only comments on the current appeal proposals are contained in a reasonably comprehensive letter to the Authority dated 6 January 2015. This letter concludes with the recommendation that the application should be withdrawn or refused. This is based, at least in part, on the lack of the necessary description of heritage

assets and significance as required by the Framework and that without proper assessment of the proposed development's effect on any heritage assets within the site and in the surrounding area, and given the significance of these assets and their proximity to the appeal site, *the proposal can be considered 'unjustified harm' to heritage assets.*

17. In response to the comments of the English Heritage, as part of the planning application process, the appellant submitted an assessment of the effect of the proposed development on designated and non-designated heritage assets, their setting and significance as prepared by Linda Smith and dated February 2015 (the Heritage Assessment). I have found nothing that leads me to believe that English Heritage or its successor, Historic England, has had the opportunity to re-assess the proposed development in light of the Heritage Assessment.
18. The Heritage Assessment identifies 13 designated heritage assets within 1km of the appeal site, all of which are scheduled ancient monuments, as well as several undesignated heritage assets. From the information before me, I have found no reason to believe that there are any other known heritage assets within or in the vicinity of the appeal site. Nor have I found any reason to disagree with the assessment of the significance of these heritage assets as set out in the Heritage Assessment.
19. As part of the appeal process I asked the Authority to identify those heritage assets which it considers would be affected by the appeal development and to provide details of these. In response I have been provided with List Entries for three scheduled ancient monuments (SAMs), all of which are identified and considered in the Heritage Assessment. These are: embanked pit alignments, linear earthworks, round barrows and cairns on Ebberston Low Moor, List Entry No. 1019601; round barrow cemetery (including the barrows known as Three Howes) 220m and 360m north west of South Moor Farm, List Entry No 1019936; and prehistoric linear boundary known as Snainton Dykes, 740m east of Ebberston Common House, List Entry No. 1020299.
20. Based on the information before me and having visited the area, I broadly agree with the assessment of the significance of these three SAMs as set out in the Heritage Assessment. In summary these are:
 - 1019601 – the significance of this important group of embanked pit alignments, linear earthworks, round barrows and cairns located a little to the south of the appeal site on Ebberston Low Moor, lies in their preservation, which includes the extant upgrading earthworks of a Bronze Age pit alignment flanked by banks, and for the complexity of different archaeological features in close proximity;
 - 1019936 – the significance of this round barrow cemetery, containing the remains of seven barrows and located a little to the north of the appeal site, lies in its density which is unusual for this part of the moors where scattered individual barrows and small groups of twos and three predominate; and
 - 1020299 – the significance of this prehistoric linear boundary, which bounds the plateau to the south east of the appeal site, like the neighbouring ancient monument No 1019601, lies in its preservation and the complexity of different neighbouring archaeological features in close proximity.
21. Given the local topography and the proximity of these three SAMs to the appeal site, the proposed development would lie within the setting of all

three heritage assets. Nonetheless, I broadly agree with the *conclusions, impacts and mitigations* identified in the Heritage Assessment, which I note are not directly challenged by the Authority. On this basis, subject to appropriate mitigation, including in respect to potential on-site archaeological features, which could be secured via planning conditions, the proposed development would conserve or enhance the historic environment. Consequently, in his regard, the proposed development would not conflict with Development Policy 7 (Archaeological Assets) of the LDF or with the Framework.

Other Matters

22. In assessing the appeal development I have taken into account the evidence that the site could be used for aviation purposes for 28 days per year without the need for planning permission. I give this fallback option some weight. However, that weight is limited given that 28 days is a relatively small proportion of the year and that the proposed building, which I have found would be harmful, would be permanent.
23. As part of and, where appropriate, in addition to the considerations set out above, I have taken into account all of the submissions made to the Authority as part of the planning application consultation and those made in response to the appeal. However these have not led me to any different overall conclusion. The evidence also refers to development and planning decisions made in respect to the other proposals. Nonetheless, each proposal falls to be assessed primarily on its own merits and, in any event, I am unaware of the full circumstances associated with any of those other cases.

Conclusion

24. For all of the reasons given above, I conclude that the appeal should be dismissed.

G D Jones

INSPECTOR

19 OCT 2015



Costs Decision

Site visit made on 5 October 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 19 October 2015

19 OCT 2015

Costs application in relation to Appeal Ref: APP/W9500/W/15/3007950 South Moor Farm, Langdale End, Scarborough YO13 0LW

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr R Walker for a full award of costs against North York Moors National Park.
- The appeal was against the refusal of planning permission for the formation of an airstrip including 2 grass runways, storage building and pilot/restroom facilities.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Government's Planning Practice Guidance states that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant indicates that the application for costs is made on the basis that the Authority behaved unreasonably in refusing planning permission in respect to all four refusal reasons bearing in mind the amendments made to the scheme relative to proposals that were the subject of a previous appeal decision and with reference to the decision made by the Inspector in respect to that appeal¹. For ease of reference I refer to that appeal as the 'previous appeal'.
4. These refusal reasons are covered under the main issues identified in my decision letter in respect to the appeal made under section 78 of the Town and Country Planning Act 1990. These main issues are the effect of the proposed development on the character and appearance of the area; on the living conditions of local residents and the experience of visitors to the area, in terms of noise, disturbance and activity, as well as on public safety; and on the historic environment.
5. The second main issue covers those matters identified in the Authority's first and third refusal reason. These are two of the same reasons that the Authority used when it refused planning permission for the development considered under the previous appeal.

¹ Ref: APP/W9500/A/14/2212850

6. As set out in my decision letter in respect to the section 78 appeal, I have not found any significant changes in planning circumstances in regard to these matters since the previous appeal was determined, such that in terms of noise and activity, the development currently proposed would not have a significant effect on the living conditions of local residents or the experience of visitors to the area, including users of public rights of way, or on public safety. Consequently, from the information before me, I have found no reasonable justification for the Authority's persistence with either its first or third refusal reasons.
7. Regarding the historic environment, there was a significant change in the planning circumstances after the determination of the previous appeal in that English Heritage raised an objection to the proposals whereas it did not comment on the previous appeal scheme. On this basis it was reasonable for the Authority to pursue this matter with the appellant. It did so and this led to the submission of an assessment of the effect of the proposed development on designated and non-designated heritage assets, their setting and significance as prepared by Linda Smith and dated February 2015 (the Heritage Assessment).
8. I have found nothing that leads me to believe that English Heritage or its successor, Historic England, was afforded the opportunity by the Authority to re-assess the proposed development in light of the Heritage Assessment. The Authority appears to have given little weight to the contents and conclusions of the Heritage Assessment in the determination of the appeal planning application and when preparing its appeal evidence. Based on the information before me and having visited the area, I broadly agree with the *conclusions, impacts and mitigations* identified in the Heritage Assessment, which I note are not directly challenged by the Authority. In these circumstances, I can find no reasonable justification for the Authority's fourth refusal reason.
9. For the foregoing reasons, therefore, the appellant has been put to unnecessary expense in the preparation of evidence in respect to these three refusal reasons. I note nonetheless, that much of that evidence had already been produced prior to the current appeal, for instance in the form of the Heritage Assessment and in respect to evidence produced for the previous appeal.
10. The remaining main issue relates to character and appearance, which are matters that can be subjective. As set out in my decision letter in respect to the section 78 appeal, I have concluded that the proposed storage building would have a harmful effect on the character and appearance of the area. I have dismissed the appeal on that basis, such that I broadly agree with the Authority's second refusal reason. On this basis, therefore, I find that a partial award only of the appellant's costs is warranted.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North York Moors National Park shall pay to Mr R Walker, the costs of the appeal proceedings described in the heading of this decision.

12. The applicant is now invited to submit to North York Moors National Park, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

G D Jones

INSPECTOR

19 OCT 2015