

DEVELOPMENT MANAGEMENT

APPEALS LIST - 19TH JANUARY 2023

APPLICATION NUMBER & SITE ADDRESS	APPEAL REFERENCE & STATUS	OFFICER & PROCEDURE
DM/0140/22/FUL The Stables Ashby Hill Ashby Cum Fenby North East Lincolnshire DN37 0QF	AP/016/22 INPROG	Richard Limmer Written Representation
DM/0536/20/FUL Land Adjacent To 83 Brigsley Road Waltham Grimsby North East Lincolnshire DN37 0LB	AP/017/22 INPROG	Richard Limmer Written Representation
DM/0046/22/TPO 24 Park Avenue Grimsby North East Lincolnshire DN32 0DQ	AP/020/22 INPROG	Paul Chaplin Fast Track
DM/0068/22/OUT Land South Of Church Lane Humberston North East Lincolnshire	AP/019/22 INPROG	Richard Limmer Informal Hearing

DM/0393/22/OUT Land Adj Old Nursery Cheapside Waltham North East Lincolnshire	AP/001/23 INPROG	Bethany Loring Written Representation
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Appeal Decision

Site visit made on 21 December 2022

by **J Downs BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 January 2023

Appeal Ref: APP/B2002/W/22/3297800

East Ravendale Farm, East Ravendale, Grimsby, DN37 0RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr George Peter Strawson of Peter Strawson Limited against the decision of North East Lincolnshire Council.
 - The application Ref DM/0154/22/FUL, dated 22 February 2022, was refused by notice dated 12 April 2022.
 - The application sought planning permission for portacabin without complying with a condition attached to planning permission Ref DM/0078/17/FUL, dated 21 March 2017.
 - The condition in dispute is No 1 which states that: The portable building hereby approved shall be permanently removed from the site on or before the 22nd March 2022.
 - The reason given for the condition is: Permission is granted for a further temporary period because it is considered that the building is not suitable for a permanent permission given its nature and the building's location in accordance with saved policies GEN2 and NH8 of the North East Lincolnshire Local Plan 2003.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. The erection of 3 temporary school buildings on this site was allowed in 2006 and subsequently renewed¹ in 2007 while works were being carried out at the village primary school.
3. The building the subject of this appeal was granted planning permission on 2 June 2010². I have amended the description of development from that permission in the banner heading above to remove a reference to retention as this is not an act of development and a reference to a temporary period of two years as this has been overtaken by later decisions. The permission was granted subject to conditions, one of which required the building to be removed by 2 June 2012.
4. An application³ was made to remove that condition which, although allowed, required the removal of the building by 11 September 2013. That condition was the subject of an appeal⁴ which was dismissed. The Council's officer report sets

¹ DC/817/06/WOL and DC/1194/07/WOL

² DC/972/09/WOL

³ DC/424/12/WOL

⁴ APP/B2002/A/12/2187045 dismissed 3 September 2013.

out that further applications were allowed to continue this siting for a further 3 years⁵, and again for a further five years⁶. This was secured by a condition which required the removal of the building before 22 March 2022. The appellant applied to vary this condition, which was refused by the Council and it is that decision which is the subject of this appeal.

Main Issue

5. The main issue is whether the condition is necessary and reasonable, having regard to the effect on the character and appearance of the surrounding area, with particular regard to the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB).

Reasons

6. The appeal site lies beyond any settlement boundary. North East Lincolnshire Local Plan 2018 (NELLP) Policy 5 regards such land as being within the open countryside, where (for the purposes of this appeal) development which promotes the retention and development of local services and community facilities will be supported. This is subject to the development recognising the distinctive open character and landscape quality of the area. This is strengthened by NELLP Policy 42 which requires landscape character to be given due consideration, with priority to be given to the protection and enhancement of the landscape character and natural beauty of the AONB. NELLP Policy 22 requires a high standard of sustainable design, which includes the protection and enhancement of natural assets.
7. The AONB is designated for the purposes of conserving and enhancing natural beauty and section 85(1) of the Countryside and Rights of Way Act 2000 (CRoW) places a duty on me to have regard to these purposes in this decision. Paragraph 176 of the National Planning Policy Framework (the Framework) confirms that great weight should be given to conserving and enhancing landscape and scenic beauty in the AONB and that the scale and extent of development within the AONB should be limited. Paragraph 130 highlights the importance of good design.
8. The appeal relates to a pre-fabricated building, coloured green, with panel walls and a flat roof. It is a basic structure which is not of a high standard of design and has a negative effect on the character and appearance of the area. It is not typical or characteristic of rural farm buildings, including those adjacent to the site. As such, the building is an incongruous feature in the open countryside and does not conserve or enhance the landscape and scenic beauty of the AONB.
9. There is landscaping around the site which restricts views of the building from further afield. Use of the bridleway may be limited. However, these factors would not justify the continued siting of the building given the harms I have identified.
10. I am also mindful of the advice in the Planning Practice Guidance (PPG) regarding temporary permissions⁷ which sets out that it will rarely be justifiable to grant a second temporary permission except in cases where changing

⁵ DC/748/13/WOL

⁶ DM/0078/17/FUL

⁷ Use of planning conditions Paragraph: 014 Reference ID: 21a-014-20140306 Revision date: 06 03 2014

circumstances provide a clear rationale. The PPG also advises that a further, permanent permission can be granted or refused if there is a clear justification for doing so. While I acknowledge that the temporary permission has been extended several times in the past, I nonetheless consider this advice remains pertinent.

11. It is not clear from the evidence before me if the building is in use or that the continued siting of the building would be promoting the retention and development of any local services or community facilities. Furthermore, the use of the building is restricted to educational purposes only and the potential other uses suggested by the appellant would require a further planning permission. There are no changed circumstances which would justify a further temporary permission or a clear justification for the permanent retention of the building.
12. I note there are no objections from interested parties to the appeal, including from surrounding residents, one of whom has indicated that they consider a further temporary permission would be appropriate. However this would not outweigh the harm I have identified above.
13. The appellant has submitted information setting out that the retention of buildings can reduce the carbon levels of a project. However this is referring to the benefits of renovating an existing building rather than constructing a new one. That is not the case before me, which is for the continued siting of a building which was intended to be temporary.
14. While the original application was by the education authority, it is clear that this was intended as a short term measure while works were carried out to the village school. There is no evidence before me that the education authority has any continued involvement with the use of the building that would justify its continued siting.

Conclusion

15. Having regard to all matters raised, I consider that the condition is necessary and reasonable in the interests of the character and appearance of the surrounding area. The appeal proposal is not of a high standard of design and does not conserve or enhance the scenic beauty of the AONB contrary to NEELP Policies 5, 22 and 42 and paragraphs 130 and 176 of the Framework. The appeal should therefore be dismissed.

J Downs

INSPECTOR



Appeal Decision

Site visit made on 6 December 2022

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 18 JANUARY 2023

Appeal Ref: APP/B2002/Z/22/3306105

Land at Railway Place, Grimsby DN32 7BN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Premier Vue against the decision of North East Lincolnshire Council.
 - The application Ref DM/0495/22/ADV, dated 6 June 2022, was refused by notice dated 25 August 2022.
 - The advertisement proposed is 2 x 48 sheet freestanding digital advertising display unit attached to monopole.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address is taken from the application form, however I have amended it to correct the word 'Palace' to 'Place' to ensure that it accurately reflects the location of the site.
3. The Council has drawn my attention to the development plan policies it considers to be relevant to this appeal, and I have taken them into account as a material consideration. Nevertheless, powers under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (Regulations) to control advertisements may only be exercised in the interests of amenity and public safety, taking into account any material factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.
4. The Council has referred to the effect on the setting of nearby listed buildings. The requirements of section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 do not apply to proposals for advertisement consent because the statutory duty only applies to the consideration of planning applications made under the Town and Country Planning Act 1990. Nonetheless, features of historic or architectural interest are relevant when assessing the general characteristics of the area and I have taken account of the presence of nearby listed buildings in considering the impact on amenity.

Main Issue

5. The main issue is the effect of the proposal on the visual amenity of the area, having regard to the presence of nearby listed buildings.

Reasons

6. The appeal site is an area of land situated off Railway Place, between a single storey commercial building and Cleethorpe Road, where the road is elevated, rising above the railway line. There are no designated heritage assets located on the site and it is not located within a Conservation Area. The elevated road forms a main route through Grimsby and is located in an area with a mix of commercial units, interspersed by a variety of more historic buildings. Lighting columns are located along both Railway Place and Cleethorpe Road.
7. Travelling along Cleethorpe Road from both directions and when walking along the central walkway between the carriageways, one of the most notable buildings in the view is the Dock Offices, which is a Grade II Listed Building. Whilst also glimpsed, the Grade II Listed Statue of Prince Albert is significantly less prominent from the elevated position due to its height and position. Currently there are no freestanding advertisements located alongside the elevated section of the road. When walking and driving along Railway Place, heading towards the elevated road the immediate surroundings are of a commercial nature. However, the upper floors of the Dock Offices along with the roofscape and the clock tower are clearly visible above the elevated section of the road, and it makes a positive contribution to the visual amenity of the area.
8. Despite the immediate surroundings being a commercial area, the proposal, due to its overall size and positioning, sitting above the railings located along the elevated road would result in a highly prominent and visually obtrusive feature, which would be seen in the wider context of the Dock Offices. This incongruity would be exacerbated by the absence of any other digital or traditional freestanding advertisements along this section of Cleethorpe Road.
9. The LED internal illumination, whilst it is proposed to provide static images with no moving elements to a level of brightness that would comply with technical standards, it would cause the proposed advertisements to be much more apparent and dominant. This would be compounded by the intermittent changing of the illuminated display that would further accentuate its presence visually and result in a harmful effect on the visual amenity of the area.
10. Accordingly, the proposal would appear overly prominent and visually obtrusive in public views of the Dock Offices on the approach along Cleethorpe Road from both directions and as you move along Railway Place towards the elevated road, which would have a significant adverse effect on the setting of the listed building. The appellant has suggested a number of conditions relating to the control of the display and luminance, however these would not override the harm that I have found to the visual amenity of the area.
11. The Council's Heritage Officer has identified other listed buildings that could be affected by the proposal. However, whilst those cited are all located in proximity to the appeal site, given the lack of intervisibility, intervening built form and structures and separation distances, there would not be a significant effect in this regard.
12. For the reasons outlined above, I find that the proposal would have a harmful effect on the amenity of the area. In assessing the harm to amenity, I have taken account of the setting of the nearby designated heritage assets. In reaching my decision, in accordance with the Regulations, I have taken into

account policies 22 and 39 of the North East Lincolnshire Local Plan 2013 to 2032 (Adopted 2018). These policies, seek amongst other things, to achieve a high standard of sustainable design informed by a thorough consideration of site context and to conserve and enhance the historic environment. Given that I have concluded that the proposal would harm amenity, accordingly, the proposal conflicts with these policies.

Other Matters

13. The Council has not raised concerns in terms of public safety, and I see no reason to take a different view based on the information provided.
14. I note that the appellant has identified that the proposal seeks to exploit the position alongside the elevated main road at the entrance to Grimsby and toward the resort of Cleethorpes, that along with advertising, the proposal could be used for public information campaigns and emergency messages and that the more modern digital advertisements would avoid the need for manual changes to more traditional billboard methods. However, those matters do not relate to the amenity of the area and, in any event, no mechanism for managing the content of the displays has been provided.
15. I note that the appellant has stated that a split decision would be acceptable to them, however I have found harm in relation to both of the back to back advertisements in this case and therefore a split decision cannot be issued.
16. I note that there are no objections to the proposal on the grounds of residential amenities, however this does not weigh in favour of the proposal.

Conclusion

17. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

G Dring

INSPECTOR