



Appeal Decision

Hearing held on 15 November 2005

Site visit made on 15 November 2005

by **Robert Forster** BA DIP LD MRTPI

an Inspector appointed by the First Secretary of State

ENCLOSURE FOR A8

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Date

19 4 DEC 2005

Appeal Ref: APP/A2335/A/04/1168372

Capernwray Diving Centre, Capernwray Road, Over Kellett, Lancs. LA6 1AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mrs D Hack against the decision of Lancaster City Council.
- The application, reference 04/00877/OUT dated 22/6/04, was refused by notice dated 23/8/04.
- The development proposed is erection of 15 holiday homes

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Main Issue

1. The main issue in this appeal is the effect of the proposal on the biological heritage of the site. A second issue is the effect on openness and the character of its surroundings. A third issue concerns the effect of traffic and parking.

Planning Policy

2. The development plan comprises the Lancashire Structure Plan and the Lancaster District Local Plan. Structure Plan Policy 15 requires account to be taken of the traffic generation implications of development proposals. Policy 19 protects nationally or locally designated sites from the effects of development. Policy E17 of the Local Plan sets out requirements for development involving County Biological Heritage Sites. Local Plan Policy TO4 states that major tourism related developments in rural areas should only be permitted where there are clear environmental or building conservation benefits.
3. PPS9 states that European plant and animal species are protected under The Conservation (Natural Habitats, &c) Regulations 1994. Planning Authorities should ensure that these species are protected from the adverse effects of development, where appropriate, by using planning conditions or obligations.

Reasons

4. The appeal site is a flooded, disused limestone quarry surrounded by a mosaic of grasslands, scrub and young trees growing on thin limestone soils and supporting a rich variety of plants and animals. Areas of species rich calcareous grassland are present, especially along the western side of the site. For its size, some 10 hectares, the site is highly diverse. Several different grassland communities occur, ranging from herb-rich calcareous grassland, through dry neutral grassland to wet neutral grassland dominated by hard rush and Yorkshire fog.
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5. The area was notified as a Lancashire County Biological Heritage Site in September 1997. The site is not a natural habitat but represents the reclamation of semi-natural vegetation following the cessation of quarrying. There is some potential to improve the quality of the grasslands. A survey in 1999 recommended a management strategy including grazing with cattle to control coarse vegetation, the cutting back of scrub and the removal of vegetation from the open pond to prevent drying.
 6. Implementation of the management plan should be taking place under a condition attached to planning permission for the detached house that has been built on the western side of the quarry. The appellants however have been unable to find a farmer prepared to graze the site with cattle due to the dangerous nature of the site. Lack of resources has also meant that the scrub management has not been undertaken. The appeal proposals include the use of the income from the holiday homes to pay an employee who would manage the habitats within the heritage site. This is one aspect of the need for this development. The other aspect of need is to contribute towards the viability of this diving centre business, the training and recreational role of which is recognised throughout the north of England.
 7. Although the Council is concerned about habitat loss and fragmentation of the habitat mosaic, the proposed locations for the chalets have been chosen to avoid such damage. Group one would occupy patches of land between the cliff edge on the western rim of the quarry and the old overgrown quarry track. The site proposed for buildings is at present dominated by scrub. The buildings are Type A, which would be contained within an earth mound with a green roof. The vegetation on the roof could incorporate the same species of plants as are found on the site at present. The green roofs will compensate for any loss of grassland habitat that might occur due to construction and increased use of the quarry track.
 8. Group 2 is a group of three holiday homes near the south west corner of the quarry. This site is dominated by rank, tall herb vegetation and scrub. It should be possible to construct these buildings without damaging any features of significant ecological value. The existing 4 metre wide strip of limestone grassland along the quarry rim should remain undisturbed.
 9. Group 3 would place 3 holiday homes near the north east corner of the site. This is an area that rises in a series of ledges from the quarry rim, with a mixture of grassland and scrub. There are opportunities to position the homes on well screened sites in amongst the scrub where they will cause least damage to the grassy habitat.
 10. Group 4 is a group of 4 holiday homes on the northern side of the quarry. This site is an artificial earth bank covered by dense hawthorn scrub with sycamore, bramble and elder on its northern side. The proposed homes would again be contained within the mounding and have green roofs. The construction of the buildings and access track will necessitate some clearance of trees and shrubs to create level platforms. None of the species likely to be affected are mature and all are common. The cliff vegetation below the proposed new buildings should not need to be disturbed. Again, the creation of grassy vegetation on the four roofs would compensate for any significant loss of ecological quality due to construction. The amount of dense scrub that would need to be removed, and the consequent loss of habitat for breeding birds, would be insignificant in relation to the amount available within the confines of the quarry site.
 11. Part of the Council's case is that the ecological interest of the site may also include statutorily protected species. The survey carried out by Sharon Flint revealed the presence of smooth newt, palmate newt, common frog and common toad. The presence of these
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species and the mosaic of habitats on the site suggest that great crested newts could be present. Whilst great crested newts were not found in the pond survey, their possible presence cannot be ruled out. It is perhaps unlikely however, as the two ponds on the site may not be deep enough for great crested newt breeding, and no suitable ponds were found outside the site within a radius of 500 metres. If surveys reveal their presence, measures could be taken to protect them and their habitat, such as the use of plastic amphibian barrier fencing around construction sites. The habitat could also be enhanced by the creation of an additional pond on the site. Measures such as these could be included within a suitable planning condition.

12. My conclusion on the first issue is that the proposed development is unlikely to seriously harm the habitat of the biological heritage site. Such harm as does occur, particularly in the short term, could be outweighed by the benefit of positive works of habitat enhancement. The proposal therefore comes within the scope allowed under SP Policy 19 and LP Policy E17. If European protected species are found to be present, measures of protection can be undertaken to ensure that the requirements of The Conservation (Natural Habitats, &c) Regulations 1994 are met.
13. I now turn to issue two, the effect on openness. It was evident at the site visit that whilst parts of the appeal site allow magnificent views of the surrounding countryside, the positions indicated for the holiday homes are relatively inconspicuous, with opportunities to hide buildings in and amongst groups of trees. The exception is Group 2, whose position would be high on the western rim of the quarry. This group would comprise Type A homes however, dug in and mounded over with green roofs.
14. The lie of the land is such that to get a good view of the site you would have to go some distance away, towards Warton. At that kind of distance, of a kilometre or more, the presence on the site of the holiday homes would be undetectable.
15. Issue three concerns traffic. There is great concern amongst local residents about the disruption to free traffic flow caused by queuing in the lane outside the diving centre. Local residents are also concerned about the wider effects of traffic associated with the centre and with the several caravan parks in the vicinity. Compared with the centre as a whole, the proposed holiday homes are unlikely to generate a significant amount of traffic, and the effect on the wider road network of the area is unlikely to be noticed. The proposal would therefore be in accord with Policy 15 of the Structure Plan, and with Policy TO4, in terms of the scale of development and traffic generation.
16. The issue regarding queuing is one of the management of the centre and its security. The proposal before me is for 15 holiday homes, the occupants of which would be more likely to be in their accommodation early in the morning than waiting in a queue of traffic outside the site. They would in any event normally come and go through the second entrance to the site, near the detached house. The Council has asked for a condition requiring the appellants to provide an off-street car park to accommodate visitors' vehicles at times when the diving centre is not open for business. Such a traffic management system should not be too difficult to devise, given the large area of car park that is available. I am unable to require it as a condition of this permission however, as it is not directly relevant to the proposal before me.

Conditions

17. Conditions are required for the submission of reserved matter details and of arrangements for drainage, and to prevent the use of the homes as dwellings. A condition is required to confine building operations to defined areas of the site and to avoid the bird breeding season. A condition requiring a new management plan for the site should be imposed. This should include measures to protect species based on surveys of the site.

Conclusions

18. This appeal proposal is for the erection of 15 holiday homes in four different areas of the diving centre grounds. The proposed design and siting is such that impacts on the natural vegetation and appearance of the site can be minimal. Although there will be some loss of habitat, particularly in the short term, there are opportunities for habitat restoration and enhancement to outweigh the harm.
19. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed.

Formal Decision

Appeal Ref: APP/A2335/A/04/1168372

20. I allow the appeal, and grant outline planning permission for erection of 15 holiday homes at Capernwray Diving Centre, Capernwray Road, Over Kellett, Lancs, LA6 1AD in accordance with the terms of the application, Ref 04/00877/OUT, dated 22/6/04, and the plans submitted therewith, subject to the following conditions:
 - 1) Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site shall be obtained in writing from the local planning authority (LPA) before any development begins.
 - 2) Application for approval of the matters included in condition 1, shall be made to the local planning authority before the expiration of three years from the date of this permission.
 - 3) The units of accommodation hereby approved shall be used as holiday accommodation for stays not exceeding 28 days only and shall not be used as the sole or main residence of any person or persons.
 - 4) Before the development is commenced, measures to secure the protection of statutorily protected species and their habitats, based upon surveys of the site carried out by a suitably qualified person, shall be agreed with the LPA and implemented before the development is commenced.
 - 5) No building operations shall take place on the site during the months of March to July (the nesting season for breeding birds) inclusive.
 - 6) Before the development begins, a programme of measures to confine construction operations to a defined area that avoids habitats of the greatest ecological value shall be agreed with the LPA.

- 7) Before the development begins, a scheme to prevent unauthorised access to sensitive, undeveloped parts of the site shall be agreed in writing with the LPA.
- 8) Before development begins, a scheme for the management of the site based on the management plan produced by Graeme Skelcher, with amendments to cater for likely impacts arising from increased recreational use shall be submitted to and agreed in writing by the LPA. The scheme shall include where appropriate additional habitat creation or enhancement in the area close to the holiday homes to compensate for any damaged habitat, using only native plant communities appropriate to the natural area.
- 9) Details of the arrangements for foul and surface water drainage shall be agreed with the LPA before development is commenced.

Richard Farrant

Inspector

APPEARANCES

FOR THE APPELLANT:

Nick Gillibrand
Ralph Tomlinson

Mason Gillibrand Architects
Greenspace Ecological Consultancy

FOR THE LOCAL PLANNING AUTHORITY:

Peter Rivet
John Jones

Lancaster City Council Planning Department
Ecologist, Lancashire County Council

INTERESTED PERSONS:

John Parkinson
Mr and Mrs Braithwaite
Mr and Mrs Lister
Mr and Mrs Whitehead

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