



## Appeal Decision

Site Visit made on 4 May 2021

**by K Savage BA(Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 June 2021**

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**Appeal Ref: APP/B3030/W/20/3260155**

**Orchard Stables, Cottage Lane, Collingham NG23 7QL**

- 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 Ian Taylor against the decision of Newark & Sherwood District Council.
  - The application Ref 20/00550/FUL, dated 31 March 2020, was refused by notice dated 6 August 2020.
  - The development proposed is change of use of land at Orchard Stables to site up to six wigwam pods, one managers office with storage, biodisc tank and associated infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of land at Orchard Stables to site up to six wigwam pods, one managers office with storage, biodisc tank and associated infrastructure, at Orchard Stables, Cottage Lane, Collingham NG23 7QL, in accordance with the terms of the application Ref 20/00550/FUL, dated 31 March 2020, and subject to the conditions set out in the attached schedule.

### Main Issue

2. The main issue is whether the proposal would represent a suitable location for tourism accommodation, having regard to relevant development plan policies, the impact on highway safety and living conditions of neighbouring occupants.

### Reasons

#### *Location for Tourism Accommodation*

3. The appeal site comprises paddocks forming part of a livery business operating across a wider site to the south of the village of Collingham. The site is accessed via Cottage Lane, a narrow country lane leading from the A1133 into the village from the south. Collingham Tennis Club and Collingham Cricket Club are located on the opposite side of the road from the site entrance.
4. The site is located outside of the main built-up area and defined village envelope of Collingham, and therefore is in the countryside for planning purposes. Policy DM8 of the Allocations and Development Management Development Plan Document (ADM) (July 2013) supports tourist accommodation where it is necessary to meet identified tourism needs, it constitutes appropriate rural diversification, including the conversion of existing buildings, and can support local employment, community services and infrastructure. In a similar vein, Core Policy 7 of the Amended Core Strategy (March 2019) (the ACS) recognises the economic benefits of sustainable

- tourism, and supports proposals for tourism development in the open countryside which meet one or more criteria.
5. The application proposes six wigwam pods and a manager's office with associated infrastructure. The facility would be accessed from the same entrance as the livery. It is indicated that the livery business already accommodates some camping facilities and the proposed pods seek to expand the tourist accommodation offer at the site. The site is also the location of the Collingham Horse Adventure Park (CHAPS), a tourist attraction in its own right.
  6. The application was recommended for approval by planning officers, but the Council's Planning Committee voted to refuse permission on the basis that the proposal did not represent sustainable tourism that met an identified need. Members cited accommodation already available in the village, namely three bed and breakfasts and a large caravan site. The Council's statement of case adds that the proposal is not considered to constitute rural diversification, citing paragraph 7.51 of the ADM which states that the Council will be firm in distinguishing between proposals for genuine diversification and those for independent businesses that may be more sustainably located elsewhere.
  7. The appellant's Business Statement confirms that whilst the proposed accommodation would be branded as part of the existing Wigwam Holidays business, this would be on a franchise basis where the appellant would continue to operate the business on site. Given the existing camping offered on site and the tourist attraction provided by the CHAPS facility, I am satisfied that the proposal would not be a wholly separate venture and would represent further diversification of the main livery business. However, even if this were in doubt, Core Policy 7 requires only one of seven criteria to be met in order for tourism development to be supported. These can include supporting an existing countryside attraction; having a functional need to be located in the countryside; constituting an appropriate expansion of an existing tourism visitor facility; supporting local employment; and meeting an identified need not provided for through existing facilities.
  8. In this case, the proposal would support an existing countryside attraction in the CHAPS facility. Moreover, it is an inherent aspect of such cabin-type accommodation that they are located away from built-up areas, as their attraction lies in factors such as a quiet environment, proximity to nature and countryside views. Therefore, I find that the proposal would be appropriate to a countryside location in principle. The proposal would also be a source of local employment, providing two to three new jobs with the potential for indirect employment elsewhere in the local tourism, retail, leisure and hospitality sectors as a consequence of visitors spending money in the local economy.
  9. In terms of need, reference is made to a report<sup>1</sup> by the Local Enterprise Partnership (LEP), which identifies that there is a dearth of glamping-style accommodation across Nottinghamshire and a lack of self-catering accommodation in and around Newark-on-Trent. I also note the aims of the Council's Destination Management Plan 2018 (the DMP) to increase visitors to Newark and the surrounding area and the amount of time and money these visitors spend, aims which are consistent with the National Planning Policy Framework (the Framework) which encourages the sustainable growth and

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<sup>1</sup> Local Enterprise Partnership D2N2's Accommodation Strategy Report 2017

expansion of all types of business in rural areas, including sustainable rural tourism and leisure developments.

10. Despite this evidence, the Council appears to have taken a narrow view that the range of accommodation in Collingham itself is sufficient to meet demand arising. However, none of the facilities referred to is comparable to the type of accommodation proposed here. Moreover, the policies referred to do not specify that need should be assessed only in respect of a single settlement or particular type of accommodation. The fact that the LEP report highlights the lack of glamping and other self-catering forms of accommodation indicates these are sectors where demand is rising across the county, and specifically around Newark. This is reinforced by the aims of the DMP to increase visitors to Newark and the surrounding area, which would include Collingham given its proximity to Newark. These are clearly expressed tourism needs in respect of both the type of accommodation proposed and its location, which the proposal would help to meet. I also acknowledge the several letters submitted in support of the proposal which cite its potential economic benefits for the village. On this evidence, therefore, I find that the proposal would address an identified need for tourism accommodation in the local area.
11. For these reasons, the proposal would satisfy several of the criteria of Core Policy 7 and the similar criteria set out under Policy DM8. The site would also be located at the edge of a defined sustainable settlement in Collingham, where visitors would be able to support the several local businesses and would be able to do so without relying wholly on the private car.
12. Consequently, I conclude that the principle of tourist accommodation on site would accord with the aims of Core Policy 7 of the ACS and Policy DM8 of the ADM, and those of supporting documents including the LEP Report and the Newark Town Destination Management Plan (2018). The overall acceptability of the proposal therefore depends on its effect on highway safety and neighbours' living conditions.

#### *Highway Safety*

13. Spatial Policy 7 of the ACS states that development proposals should provide safe, convenient and attractive accesses for all, be appropriate for the highway network in terms of the volume and nature of traffic generated, and ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected..
14. The existing operation on site comprises 18 livery businesses (11 stabled and 7 grass) operated on a DIY basis, meaning horse owners rent the stable or paddock but then visit the site to care for the horses themselves. The appellant sets out that the existing livery businesses are typically attended twice a day, all year round, to meet the needs of the horses, added to which are staff, vet and other trips. In comparison, the wigwams are estimated to generate traffic only seasonally, with an aim to have bookings on 100 nights of the year, mainly during holidays in spring and summer, and at weekends.
15. The appellant states that the proposal would result in an overall reduction in vehicular movements compared to the existing livery business, as the reduction in the number of livery businesses on site by four, and corresponding reduction in number of trips to those livery businesses, would be greater than the increase in trips made by visitors to the proposed accommodation. Evidence supplied by the

appellant indicates an average of 100 one-way trips per day to the liveries and 20 to the wigwams, at 5.5 trips per livery and 3.3 per wigwam. A reduction of four liveries would therefore result in some 22 fewer trips per day, offset by an increase of almost 20 trips to and from the wigwams, but this would be the case only for the days the wigwams are occupied. Overall, it is estimated that there are some 6128 one-way journeys per annum to four liveries, and there would be some 1720 visits to the proposed wigwams, based on 100-day occupancy and inclusive of staff journeys. This equates to a reduction of 4408 journeys per annum, an almost 72% reduction.

16. Nottinghamshire County Council (NCC) as the local highway authority has considered the supplied data and concluded that the proposal with a reduced livery offering would reduce daily traffic levels compared to present levels. It adds that there is record of two collisions on Cottage Lane over the past 5 years, but it is not possible to attribute these to Orchard Stables.
17. Notwithstanding this data, the Council's Planning Committee concluded that the proposal would result in 'immense pressure' on the local highway network through increased numbers of vehicles using Cottage Lane, which it considered is too narrow to accommodate additional traffic, and would be a source of potential conflict given it is frequented by walkers and cyclists, particularly given it is part of the National Cycle Network and the Trent Vale Trail. I have had regard to the several representations of interested parties in the matter of highway safety, which refer to the narrowness of Cottage Lane, its forming part of the Trail and Sustrans route, the potential for conflict between vehicles and pedestrians, and the likelihood that traffic is and would be greater than accounted for in the appellant's data.
18. I acknowledge the concerns raised in these respects. Cottage Lane is narrow, particularly at its southern end between the site and its junction with the A1133. However, the Council has not advanced any contrary evidence to that supplied by the appellant to support its conclusions that rather than a decrease in overall traffic, there would in fact be increases in traffic which would be 'too intensive for local infrastructure'. I accept that there will be times when traffic is slightly higher than calculated in the appellant's data. There will also be occasions, as documented by photographic evidence supplied by an interested party, where multiple walkers and cyclists may be using Cottage Lane at the same time. However, there will equally be times when usage of the lane will be much lower, and where traffic would be demonstrably less than at present, such as when the wigwams are not occupied during the low holiday season. Given this, and the absence of data to contradict the appellant's evidence, I find it presents a reasonable summary of traffic generated by the site upon which to base my considerations.
19. There will always be an element of risk where a road is narrow and road users are not segregated, but it would be expected that those using Cottage Lane would be aware of this risk and proceed accordingly. I saw the road to be very lightly trafficked during my visit, but I accept this was only a snapshot on an overcast weekday. However, the appellant's evidence indicates that the combined livery and accommodation on the site would generate an average of just over 7 one-way trips per hour between 0500 hours and 2200 hours, roughly one every 8.5 minutes. Even accepting that trips from the wigwams may take place later in the morning and during the middle of the day when walkers are more likely to be present, compared to the typically early morning

and evening visits to the liveries, I do not consider such volume of traffic to be intensive or result in 'immense pressure' on the highway network as argued by the Council. Rather, the evidence indicates that this volume would be no greater than that generated by the existing development.

20. I note the concerns of interested parties that estimates of only one vehicle per wigwam are too low, and that four-person accommodation will often mean two vehicles bringing guests to and from site. However, even if the estimate of trips was doubled, it would still be well below the existing estimates for the four liveries. Based on the appellant's figures, trip levels would also remain below existing levels even if occupancy were at 150 nights per annum, which is roughly the 40% occupancy rate aspired to in the longer term. Other trips by delivery drivers and refuse vehicles would be less frequent and unlikely to contribute significantly to the overall volume of traffic generated by the proposal. Overall, when compared to the existing situation, and accounting for periods of vacancy during the year, I find that the proposal would not create a demonstrably greater risk of conflict between vehicles and pedestrians than occurs at present.
21. Interested parties have also expressed concern at the potential for more wigwams to be added in future, and the associated traffic impacts this would have. However, any such proposal would be subject to a separate application for planning permission, which would fall to be determined on its own planning merits. I have considered the appeal on the basis of the six wigwams proposed.
22. For these reasons, I conclude that the proposal would not result in unacceptable harm to highway safety, and no conflict would arise with Core Policy 7 of the ACS and Policy DM8 of the ADM in terms of their aims that tourism development has an acceptable impact on local character in terms of transport, nor with Spatial Policy 3 of the ACS which states that development should not generate excessive car-borne traffic from out of the area. Moreover, there would not be conflict with the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

#### *Effect on living conditions*

23. The Council's concerns in this respect are briefly expressed. In essence, the concern is that the accommodation would have the potential for group bookings and late night activity which would be to the detriment of neighbours' living conditions.
24. The nearest dwellings are some 130 metres to the north, across open fields. At this distance, general noise from occupants of the wigwams conversing, even late into the evening, is unlikely to be heard at any significant volume within the nearest properties. Were music to be played or a larger party to occupy the accommodation, it is possible that louder and more sustained noise may be audible at the nearest properties, though I found the site itself to be exposed to the wind which is likely to dissipate noise produced at the site. Nonetheless, the appellant has indicated that it is not his intention to cater to larger parties, and he has volunteered a condition requiring a Site Management Plan to be submitted and agreed by the Council. This would include measures to mitigate noise pollution, including restrictions on the time the proposed play area can be used and not allowing music to be played after 2200 hours. The appellant is

also prepared to install an acoustic fence along the northern side of the site. In my view, such measures would ensure potential sources of disturbing noise were minimised to a level where they would not cause harm to neighbours.

25. Interested parties also raise concern at the potential for occupants of the wigwams to cause noise and disturbance if returning late at night to the accommodation on foot via Cottage Lane. This may occur on occasion, but given the small size of the facility, and potential inclusion within the Site Management Plan of actions for managing visitor behaviour, I am satisfied that such incidents would not be so frequent or intrusive as to harm the living conditions of neighbouring occupants.
26. I find similarly in respect of noise from the generator which may be required in the event of a power cut, as such incidents would be very infrequent. Even so, at the distances involved, the noise would not be intrusive to neighbouring occupants. The same considerations would apply to concerns over cooking smells from barbecues and fires, though the appellant has stated the latter would not be permitted in any event for safety reasons.
27. For these reasons, subject to a condition requiring the submission, approval and implementation of a Site Management Plan, I conclude that the proposal would not lead to demonstrable harm to neighbours' living conditions, and no conflict would arise with Core Policy 7 or Spatial Policy 3 in this regard. Nor would there be conflict with aim of the Framework that development should create places with a high standard of amenity for existing and future users.

## **Other Matters**

### *Effect on landscape character*

28. The Council did not oppose the proposal in terms of its design or effect on the landscape character of the area. The surrounding Winthorpe Village Farmlands landscape is described in the Council's Landscape Character Assessment Supplementary Planning Document as a generally flat and gently undulating arable landscape with numerous woodland blocks, in moderate condition with moderate sensitivity to change and a policy to conserve and create.
29. In this case, the proposed reinforcement of the existing hedgerows would help to screen the development and help it to assimilate into the landscape, given the site is presently open paddocks. A proposed 1.5 metre high earth bund planted with native species would further screen the development from the roadside. Though criticised as out-of-character, the land itself is raised above Cottage Lane, and the bund would be seen as a modest continuation of this. It would also be planted which in time would minimise any initially stark appearance and contribute towards a woodland character seen elsewhere within the landscape. Having regard to all of the evidence, I agree with the Council that the proposal would not adversely affect the quality of the surrounding landscape, and would comply with the requirements of Policy DM5 of the ADM, which requires that the rich local distinctiveness of the district's landscape and character of built form should be reflected in new development.

### *Effect on Heritage*

30. The appeal site is located outside of the Collingham Conservation Area (CCA), but it falls within its setting as the CCA extends to the cricket and tennis clubs on the opposite side of Cottage Lane. The nearest listed buildings are within

the built-up area of the village, but I concur with the Council that given their distance from the appeal site, and the low level built form proposed, the proposal would preserve the settings of these listed buildings.

31. Similarly, I agree that the screening provided by the bund and planting would minimise the visual impact of the development in views from within the CCA, such as from the cricket pitch, and the rural surroundings of the CCA would not be demonstrably eroded. Accordingly, I find that the proposal would preserve the setting of the CCA.

### *Ecology*

32. The site comprises open paddocks used for grazing, and no evidence of particular habitats or biodiversity has been advanced. Existing hedgerows to the northern and eastern boundaries would not be adversely affected by the proposal, whilst the proposed planting, along with other measures such as bird boxes and hedgehog houses would provide for a net gain in biodiversity on the site. Precise details of such measures could be secured by condition.

### *Flood risk and drainage*

33. The site lies within Flood Zone 1 and the proposal is minor in scale and site coverage. The evidence before me does not indicate there would be a significant risk in terms of flooding or drainage. Sewage would be suitably managed through the proposed biodisc tank located to the north-western corner of the site. I have no concerns, therefore, in respect of these matters.

### **Conditions**

34. I have had regard to the list of suggested conditions provided by the Council and the appellant. Where necessary, I have amended their wording to ensure they meet the relevant test for conditions set out in the Framework.
35. In addition to the standard time limit for implementation, a condition setting out the approved plans is necessary to provide certainty. A condition requiring adherence to the proposed external materials is also necessary to ensure a satisfactory appearance.
36. Conditions requiring the submission, approval and implementation of details of the proposed access, and requiring the implementation of parking and turning areas in accordance with the approved plans, are necessary in the interests of highway and pedestrian safety.
37. I shall also impose conditions relating to the provision of a Site Management Plan, details of external lighting, and the installation of the proposed acoustic fence, in the interest of safeguarding neighbours' living conditions. Given the limited window and door openings in the wigwams, it is not necessary to require details of internal lighting by condition.
38. A condition is required for the submission, approval and implementation of a scheme of hard and soft landscaping, in order to preserve the landscape character of the area. To provide net gain in biodiversity, it is necessary to condition details of proposed hedgehog houses/nest boxes and other ecological enhancements, and their subsequent implementation.
39. It is necessary to restrict use of the wigwams to holiday purposes only, in order to prevent use of the site as permanent residential accommodation. However,

it is not necessary to do this by way of three separate conditions, as suggested by the Council. I have therefore combined these into a single condition which will achieve the purpose of preventing permanent residential occupation, which would not be supported in the countryside under the development plan.

40. The appellant invited a condition requiring details of electric vehicle charging points to be submitted and approved by the Council. However, the Council does not suggest such a condition and has not provided any reason why it should be imposed. Therefore, I have not imposed a condition to this effect.
41. The Council also seeks a condition removing permitted development (PD) rights for changes of use under Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The Planning Practice Guidance states that conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity and should be precisely defined. The brief reason given by the Council is to retain control over future uses of the site which would normally be permitted under the GPDO. However, it is not specified which classes of development under Schedule 2, Part 3 are relevant, or even applicable in this case, given that Part 3 does not permit changes of use from holiday accommodation. I therefore find no justification has been advanced for removing these permitted development rights, and I shall not impose the condition.

### **Conclusion**

42. For these reasons, and taking all relevant matters into consideration, I conclude that the proposal accords with the development plan, taken as a whole, and material considerations arising in this case do not indicate that permission should nevertheless be withheld. Therefore, the appeal is allowed.

*K Savage*

INSPECTOR



## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

S(-- )001 (Location plan as existing); G(-- )001 Rev A (Block Plan as Proposed); G(-- )002 Rev A (Long Section 1-1 and East Elevation as Proposed); G(-- )003 Rev A (North and South Elevations as Proposed); G(-- )004 (Sight Lines and Entrance Upgrade Details as Proposed); G(-- )101 (Wigwam Deluxe Cabin as Proposed); G(-- )102 (Wigwam Deluxe Cabin as Proposed); G(-- )201 (Accessible Cabin as Proposed); G(-- )202 (Accessible Cabin as Proposed); G(-- )301 (Timber Clad Container as Proposed); SK(-- )001 (Masterplan Sketch as Proposed); SK(-- )002 (North East Entrance Corner Sketch as Proposed); SK(-- )003 (North West Corner Sketch as Proposed); SK(-- )004 (South West Corner Sketch as Proposed); SK(-- )005 (South Corner Sketch as Proposed); SK(-- )006 (Reception and Storage Container Sketch as Proposed).
- 3) The materials to be used in the construction of the external surfaces of the wigwam units and storage building hereby approved shall accord with the details submitted within the application form and on the approved drawings unless otherwise agreed in writing with the local planning authority.
- 4) Notwithstanding the submitted drawings, no part of the development hereby permitted shall be brought into use until the access to the site has been completed and surfaced in a bound material for a minimum distance of 8m, along with the installation of a suitable means of surface water disposal behind the highway boundary in accordance with a plan first submitted and approved in writing by the local planning authority. Thereafter the access shall be constructed in accordance with the approved plans and retained for the life of the development.
- 5) No part of the development hereby permitted shall be brought into use until the parking and turning areas are provided in accordance with the approved plan, G(-- )001 Rev A (Block Plan as Proposed). The parking and turning areas shall not be used for any purpose other than parking and turning of vehicles.
- 6) No part of the development hereby permitted shall be brought into use until details of any external lighting to be used in the development have first been submitted to and approved in writing by the local planning authority. The details shall include location, design and levels of brightness. The lighting scheme shall thereafter be carried out in accordance with the approved details and retained for the lifetime of the development.
- 7) No part of the development hereby permitted shall be brought into use until full details of both hard and soft landscape works have first been submitted to and approved in writing by the local planning authority. These details shall include:
  - full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting)

and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;
- design and location of the acoustic fence;
- any other hard surfacing materials.

The approved landscaping scheme shall be carried out within 6 months of the first use of any building or completion of the development, whichever is soonest, unless otherwise agreed in writing with the local planning authority. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted on written consent of the Local Planning Authority.

- 8) Notwithstanding the requirements of Condition No 7, the approved acoustic fence shall be installed prior to the development hereby approved being brought into use and shall be retained for the lifetime of the development.
- 9) No building on site shall be first occupied until details including location of a hedgehog house and bird nest boxes and any other ecological enhancement, have been submitted to and approved in writing by the local planning authority. The hedgehog houses/nest boxes and the approved ecological enhancement scheme shall then be installed prior to first use or in accordance with a timeframe to be agreed with the local planning authority, in accordance with the approved details and retained thereafter for the lifetime of the development.
- 10) No part of the development hereby permitted shall be brought into use until a Site Management Plan has first been submitted to, and approved in writing by, the local planning authority. The Site Management Plan shall include details of measures to be employed to minimise noise and disturbance on site, measures to ensure behaviour by occupants when on site and entering and leaving the facility, how breaches of the plan may be reported to the site owner/manager and details of measures which will be undertaken by the site owner/manager to remedy any breaches of the plan. The approved Site Management Plan shall thereafter be adhered to at all times and for the life of the development.
- 11) The wigwam units hereby approved shall be used for holiday accommodation purposes only and shall not be occupied for any other purpose other than as holiday accommodation. In particular the accommodation shall not be used as the sole or principal residence by any person or persons, and shall not be occupied by the same person or persons for a total period exceeding 28 days in any calendar year. The owner of the site shall maintain an up-to-date register of occupants for each calendar year, which shall be made available for inspection by the local planning authority, at any time.

### **End of Schedule**