

BOROUGH OF KETTERING

Committee	Full Planning Committee - 07/05/2019	Item No: 5.2
Report Originator	Sean Bennett Senior Development Officer	Application No: KET/2019/0089
Wards Affected	Slade	
Location	Cransley Eco Park CIC, The Old Filter House, Eagle Lane, Cransley	
Proposal	Full Application: 2 no. static shepherd huts and 2 no. log cabins for use as holiday lets. Siting of mobile unit for use as tea room	
Applicant	Mr P Stein Cransley Eco Park CIC	

1. PURPOSE OF REPORT

To describe the above proposals
To identify and report on the issues arising from it
To state a recommendation on the application

2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be REFUSED for the following reason(s):-

1. By reason of the prominent siting of the shepherd huts (particularly the hut toward the northern extent of the site) and the tea-room the proposal is not considered to respect the character and appearance of the site. In addition the application has failed to demonstrate that the proposal has had appropriate regard to and respects the visual amenities of the Woodland area under a Tree Preservation Order. The proposal therefore is considered to harm the visual amenities of the site in conflict with Policy 10 (ii) and (vii) of the Borough of Kettering Local Plan and Policy 8 (d) of the North Northamptonshire Joint Core Strategy and is inconsistent with paragraph 127 of the NPPF.
2. The application has failed to demonstrate that the proposal would protect and mitigate impacts to biodiversity (including protected species) contrary to Policy 4 (a) of the North Northamptonshire Joint Core Strategy and Policy 10 (iv) of the Borough of Kettering Local Plan and is inconsistent with paragraph 175 of the NPPF.
3. Due to the siting of the log cabins within an area at risk of reservoir inundation and nature of the log cabins (including ground floor sleeping and vulnerable use) the failure of the dam could lead to rapid water inundation, with little warning, which would present a risk to life for the lifetime of the development. As such the application is in conflict with Policy 5 (a) of the North Northamptonshire Joint Core Strategy and is inconsistent with paragraph 155 of the NPPF.

Officers Report for KET/2019/0089

This application is reported for Committee decision due to the proposal having received a letters of support from a Parish Council

3.0 Information

Relevant Planning History

KET/1990/0344 – Outline for 14 holiday lodges/ leisure facilities, convert filter house to leisure use, redevelop club house, private sewage plant, access and parking – APPROVED – 22/10/1991

KET/1996/0610 - Outline for 14 holiday lodges/ leisure facilities, convert filter house to leisure use, redevelop club house, private sewage plant, access and parking (identical to KET/1990/0344) – APPROVED – 22/10/1996

KET/2001/0868 – Variation of Condition 1 of KET/1996/0610: Further time period – REFUSED – 19/11/2001 for the following summarised reasons:

1. Unsustainable location
2. Harm caused to the rural character of the area
3. Harmful to the character and ecology of the area as a result of disturbances and intensification of vehicular movements harmful to the highway network

This refused application was subsequently subject to an Appeal (ref: APP/L2820/A/02/1095505) and was Dismissed on the 14th of August 2003 based on Local and National Planning Policy at the time. The reasons for dismissal of the Appeal related to material changes in planning circumstances since the outline planning permission was granted in 1996 and specifically the conflict with Policy relating to reducing the need to travel by car and promoting accessibility to leisure facilities by public transport.

KET/2013/0766 - Conversion of Water Company filter house to a dwelling – APPROVED – 06/06/2014

KET/2018/0981 – Change of use of old weir house and sand washer to education centre and museum with additional parking - pending

Site Visit

Officer's site inspection was carried out on 01/03/2019 and 18/04/2019

Site Description

The site lies in the open countryside approximately 2km from the western edge of Kettering (and the A14). It is situated between the villages of Thorpe Malsor, about 0.6km to the north and Great Cransley, about 1km to the south. It is accessed along narrow country lanes.

The site consists of a late Victorian/early Edwardian Reservoir site including dam, valve tower, disused filter beds, remnants of a boat house and other

plant and small buildings associated with its original use as a source of water supply. The eastern part of the site from the dam to Eagle Lane consists of woodland under a Tree Preservation (Area) Order (TPO).

The Reservoir is no longer used as a source of water supply with the Filter House directly to the east of the dam converted to a dwelling recently. The reservoir is used for water based leisure recreation with Cransley Sailing Club based there with their associated storage building, club house, parking area and landing stage located close to the site's southern extent. To the east of the site are two buildings that once related to the Reservoir; 'The Pump House' and 'Reservoir House' which are two dwellings independent of the site. The partly-made access track makes its way between these two houses and the woodland and gives vehicular access to the Reservoir, the Sailing Club and the 'Filter House'.

The site is negotiated by Public Rights of Way (PROW) including footpath HC/003 which crosses over the dam and continues toward the north and Thorpe Malsor.

Proposed Development

The application seeks full planning permission for two shepherd huts and two log cabins for holiday lets and also the siting of a mobile unit for use as a tea-room.

The shepherds huts (2), which consist of 4.8x2.4m timber buildings 2.4m in height, are proposed to be located in two locations; one toward the northern extent of the site close to where PROW HC/003 accesses the site fronting an overflow channel. The other shepherd hut is located to the southern extent of the site and to the south of the Sailing Club building within the wooded area. Toilets will be provided via a cassette system.

The 'log cabins' (2) consist of timber clad buildings 5x10m measuring 3m high and internally consist of two double bedrooms, a W/C with shower and a kitchen/dining/living area. They are proposed to be located within the Woodland to the south-east of the filter beds. The toilets will operate a macerated system draining into a bio-digester.

The mobile unit proposed to be used as a tea room is proposed to be located to the north of the Sailing Club building and would consist of a 12x2.5m timber clad building approximately 2m in height.

The application was accompanied by a three page applicant prepared document which included a 'Biodiversity report', 'Design and access statement', 'Flood risk assessment', a 'Planning Statement' which gave some background information, a 'Transport statement' and a 'Tree Survey'. More recently the applicant has provided a supplementary document indicating that the cost of producing professional surveys was prohibitive and in any event do not feel that such surveys are necessary. An 'On-site Plan for Reservoir Dam Incidents' document was also recently provided in support of the proposal.

Pre-application

Pre-application advice was given for the multiple shepherds huts and log cabins at various locations around the site. Based on the information provided the Officer was unable to offer an opinion that could later be relied upon. The applicant was advised however to have regard to the site's overseeing Policy and in particular prominent positioning of the huts and cabins should be avoided. The applicant was also advised to provide a professionally compiled ecological and arboricultural survey and to provide information that has regard to Northamptonshire County Council Highway comments received and were also advised to contact the Environment Agency to discuss the proposal.

The application has been submitted with some regard to the pre-application advice and some additional information has come forward as the application has progressed, however there are exceptions, notably the application lacks certain of the professionally compiled technical information mentioned.

Any Constraints Affecting the Site

Local Wildlife Site (LWS) (2011)

Flood Plain

TPO (Woodland) (2008)

Open Countryside

Public Rights of Way

4.0 Consultation and Customer Impact

Thorpe Malsor Parish Council: Object for the following summarised reasons:

- Harmful impacts to the rural character and ecology of the site particularly toward the protected woodland area, the designated wildlife site and protected species and from views experienced from the PROW
- Adverse traffic impacts to the accessing country lanes as a result of intensification of the sites use particularly given its use as a 'rat-run' and lack of footpaths
- Observe that the existing traffic movements associated with the sailing club are limited to certain days and times and therefore there is not 'continuous floor of traffic' such as those that may be expected with the 'tea room'
- No public transport to the site
- Inadequate on-site parking provision
- Inadequate information provided in support of the application with no professional surveys having been undertaken
- Any benefits would not outweigh the harm identified

Great Cransley Parish Council: Say that they **support** the application with no further comments provided

KBC – Environmental Protection Officer: *'No comments'* stated in their response

Environment Agency (EA): Provide the following summarised advice:

- The shepherd huts and café [tea-room] are located within flood Zone 1 and outside the area at risk of flood inundation – no comments
- The log cabins are located within Flood Zone 1 but are within the area at risk of reservoir inundation on the landward side of the reservoir dam. The failure of the dam could lead to rapid inundation which may present a risk to life.
- The cabins are single storey with ground floor sleeping. It is recommended that the cabins are repositioned [understood to be 2m southwards] outside of the reservoir breach extent.
- In the event that the cabins are not re-positioned [which they have not been following the applicant having been provided with the EA response] an assessment of the impact of Cransley Reservoir, in the event of a dam failure, on the proposed development should be provided. Such an assessment should include the advice of the reservoir Panel Engineer and Supervising Engineer. The approach is supported by the Strategic Flood Risk Assessment (SFRA) for the area which recommends site specific Flood Risk Assessment (FRA) for development downstream of a reservoir should consider flood risk from a breach of an upstream reservoir.
- The Assessment should also include a Flood Warning and Evacuation Plan (FWEP)

Notwithstanding the above it is the opinion of the EA that even if a detailed assessment of the impact of a reservoir failure was completed and included a FWEP, given the scale, nature and location of the development, it would not demonstrate that the proposed development is safe for the lifetime of the development. In particular the failure of the dam to the ground floor sleeping cabins may present a risk to life.

OFFICER COMMENTS: The applicant has recently provided a form of FWEP but not a FRA

NCC – Local Highway Authority (LHA): Say that they cannot support the application requiring further information to fully assess the impacts. The LHA would require information showing access and parking arrangements and have concerns about impacts caused to the highway by construction traffic.

The LHA also say that no information regarding trip generation have been provided although note that the number of movements is likely to be small – albeit exaggerated on narrow roads. Information on PROW protection is also

provided together with a series of conditions that should be attached in the event that the application is approved including the provision of visibility splay, position of gates, control of debris and a Construction Management Plan.

NCC – Ecology: State that *‘the impacts of the proposed development will...need to be properly assessed by a suitably qualified ecologist before this application can be determined’*

NCC – Lead Local Flood Authority: Refer to Standing Advice as the proposal is not ‘major’ development

Natural England: No objection stated based on impacts to statutorily protected sites or landscapes [this would not extend to impacts to local wildlife sites].

Neighbours: Nine third party letters received including seven letter of objection predominately from or on behalf of Thorpe Malsor householders; their reasons for objection are consistent with those detailed above under Thorpe Malsor Parish Council comments and included references to the dismissed appeal.

In addition two letter of support have been provided for the proposal; including from Cransley Sailing Club.

The Applicant: By way of a rebuttal to the objections received the applicant has provided a statement; summarised:

- The shepherd huts target market will be aimed at couples and families interested in water sports and the tea room at passer-by’s with the site current activity – it is asserted that the sites peace and tranquillity will not be adversely effected
- No detrimental impact on wildlife is anticipated
- Existing visitors do not just ‘stick’ to the paths but roam throughout the site although this could be restricted
- Occasional screams and laughter would not spoil the areas peace and quiet
- There is some necessary lighting however this would not harm wildlife
- The log cabins are discreetly located and sympathetically designed
- The number of additional traffic movements created would not be significant
- A previous approval for more holiday lets was not implemented
- Sewage will be dealt with properly
- The ‘tea room’ will not serve fried food, burgers, chips etc... and therefore the proposal will not create unwanted smells. Its associated welfare facilities will be provided at the sailing club building and will not attract such a level of custom that will result in traffic concerns.
- The site is more than adequately sized to cope with the proposal whilst also retaining its peace and quiet

- The site has been allowed to be accessed for roaming in areas other than the path to allow people to experience it
- It is acknowledged that the woodland is subject to TPO – a felling licence is granted by the Forestry Commission

5.0 Planning Policy

National Planning Policy Framework (NPPF):

2. Achieving sustainable development
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

Development Plan Policies

North Northamptonshire Joint Core Strategy (JCS):

1. Presumption in favour of sustainable development
3. Landscape character
4. Biodiversity and geodiversity
5. Water environment, resources and flood risk management
8. Place shaping
11. The network of urban and rural areas
25. Rural economic development and diversification

Saved Policies in the Local Plan for Kettering Borough

10. Environment: Cransley and Thorpe Malsor Reservoirs; the policy is as follows:

Planning permission for development at Cransley and Thorpe Malsor reservoirs will not normally be granted.

Exceptions may be considered where proposals are compatible with the peaceful rural nature of the area and:

i) do not involve the construction of new buildings unless there is a special and fully justified need consistent with the provisions of this plan or it involves conversions or redevelopment of existing buildings (for buildings of a similar size);

ii) do not involve development in prominent locations;

iii) do not compromise, reduce or involve the loss of existing recreational facilities;

iv) do not cause significant increase in the level of disturbance especially where this would be likely to harm the character and ecology of the area;

v) do not cause an intensification of vehicle movement to or from the sites onto inadequate sections of the local road network; and

vi) do not materially harm the amenities of neighbouring dwellings by reason of noise, loss of privacy or other forms of disturbance;

and in the case of Cransley:

vii) do not involve the felling of trees within the woodland tree preservation order in such numbers as to destroy its visual amenity value.

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

The key issues for consideration in this application are:-

1. The principle of the development
2. Impact on character and appearance of the area
3. Impact on residential amenity
4. Impact on highway safety
5. Impact on biodiversity
6. Impacts of flooding/ reservoir breach
7. Benefits
8. Planning balance

1. The principle of the development

The site is located in the open countryside where development is severely restricted by policy 7 of the Local Plan (LP) and 11 of the North Northamptonshire Joint Core Strategy (JCS). Policy 25(1) of the JCS consistent with Chapter 3 (paragraph 83) of the NPPF does however offer scope for development in the countryside associated with the provision of tourist and leisure facilities, recognising that locations with access to local services by foot, cycle or public transport provide the greatest opportunity for sustainable rural development, in the interests of development of the rural economy.

Given the sites location and proximity to surrounding settlements, with no (or likely) passing bus service visitors to the proposals would depend on the private car. This does not sit comfortably with the recognition laid out in Policy 25(1) of the JCS. This wording, however, requires recognition and is not thereby outweighing and therefore the lack of such sustainable accessibility to the proposal is not determinative. The acceptability of the

proposal, hinges on the proposals having a meaningful link with the location or attraction and/or whether there are benefits of more importance.

The applicant owns Cransley Reservoir and whilst they do not directly operate the recreational activities associated with the reservoir they envisage that the Holiday Lets will be aimed at persons interested in water sports. Whilst the relationship between the site owner (applicant) and the Sailing Club is not clear it is reasonable to assume that the applicant has rights over use of the reservoir for recreational water-based purposes and therefore is able to make such an offer. This being the case and given the modest quantum and nature of the Holiday Let accommodation proposed it is considered highly probable that visitors to the site will predominately be attracted to stay at the Lets due to the water based recreational activities available at the site rather than just because of its pleasant setting. It is acknowledged that this is a change of approach from the 2001 appeal application; however that proposal was for significantly more Lets (14) and involved a more comprehensive development rather than the modest scale of development proposed here. In addition the matters before the appeal inspector appear to indicate that the appeal applicant did not have recreational rights over use of reservoir. The scale of the development and the accommodation offer thereby would be such that the proposal directly relates to the host reservoir and consequently cannot be located in a different location. In the event that future applications come in to expand Holiday Let accommodation at the site, in the event that this application is approved, they can be assessed at that time with regard to how any existing users may utilise the site's water-based offer. It does not thereby follow that granting of this application would mean that the site would be subject to further intensification.

The tea-room would be available to users of the holiday lets, although it is likely that it would be predominately used by other visitor to the site; notably users of the Sailing Club. The Sailing Club will also share its welfare facilities with the tea-rooms. As such there is considered to be a direct link between the provision of the tea-room and the site's recreational use and therefore is considered to enhance the existing leisure offer at the site.

In addition and offered as part of an additional important benefit associated with the proposal; the applicant discusses that the average spend associated with the general up-keep and required maintenance of the site and in particular the reservoir equipment amounts to a significant sum of money that is not matched by the Sailing Clubs fees. As such and together with the on-going woodland planting and maintenance initiatives undertaken the proposal would provide a source of income to the overall benefit of the reservoir. Whilst no particular demonstrative evidence base has been provided to support these claims it is not disputed that, together with the objectors, the applicant has a real desire to retain the areas attractive rural qualities whilst also making it available to all. This is particularly evident in the woodland where an informal woodland nature trail has been created off the line of the Public Rights of Way (PROW). As the applicant draws attention to this in the submission; mentioning that it is a private site and

other than ensure that the routes of the PROW remain accessible they are under no duty to allow unrestricted access to other parts of the site, which they do and encourage. As such whilst there is no reason to believe that the site is at risk in the event that this development is not permitted the proposals wider benefits to the site is a factor applied in its favour.

The principle of the proposal therefore is considered to be acceptable in its broadest terms. This does not however mean the provision of the development at any cost; in particular the NPPF states the requirement of proposals to respect the character of the countryside. It does, however, represent a significant shift in Local and National planning policy approach from those that were considered in the 2001 appeal application that permitted development in the open countryside only in exceptional circumstances.

The site is covered by saved site specific policy (10) in the Local Plan (see above for full policy) due to its value as a countryside resource. It is this policy that gives opportunities for the development. Policy 10 relates to Cransley and Thorpe Malsor reservoirs whilst emphasising that planning permission will not normally be granted. Exceptions may be considered where proposals are compatible with the rural nature of the area and satisfy a number of criteria. This Policy was that same that was considered under the 2001 appeal application. The various criteria mentioned above shall be picked up as the report progresses although the key wording that should be borne in mind throughout, as the golden thread, is that the proposal should be **compatible with the peaceful rural nature of the area**; a criteria that relates primarily to the intensification of the use.

2. Impact on character and appearance of the area

The overseeing Policy (10) of the LP seeks to discourage new buildings in its first (i) criterion, at (ii) seeks to avoid development at prominent locations, and at (iv) and (vii) seeks to safeguard visual amenity value of the area and in particular the woodland area covered by the TPO. These criteria's are associated with the protection of the sites pleasant open and sylvan qualities.

Policy 8 (d) of the JCS is relevant and consistent with Chapter 12 of the NPPF seeks development to respond to a site's immediate and wider context. Policy 3 of the JCS consistent with Chapter 15 (para. 170) of the NPPF seeks development to be designed in a way that is sensitive to its landscape setting.

In terms of the proposed provision of the 'log-cabins' within the TPO area; in the absence of any evidence that would lead to a different conclusion it has not been demonstrated that they can be provided in a way that safeguards the visual amenity of the woodland, through tree protection. Whilst the cabins are located discretely from the site's PROW, approximately 90m a way, which would not outweigh the failure to demonstrate harm that could exist to the sites woodland qualities.

Moving on to the tea-room building; it is noted that such a building has been brought to the site recently and functioned as a seasonal workers welfare station associated with the up-keep of the reservoir. It is not clear whether this existing building is proposed to be used as the tea-room but its size is comparable to the size of building proposed and thereby is a good 'yardstick' whereby the acceptability of the tea-room may be experienced. This existing welfare building is located adjacent and to the east of where the tea-room is proposed and is located in such a way that it is reasonably screened by existing vegetation (including trees) particularly from the PROW. The proposed location of the tea-room on the other hand between the welfare structure and the Sailing Club building would be more conspicuous from the PROW particularly as approaching from the north; whilst it would be seen in the context of the Sailing Club house its location is not ideal and would be experienced as 'prominent'. This is contradictory to Policy 10 criteria, especially as a better location has been shown to be achievable through provision of the Welfare building.

Lastly on this matter; the shepherd huts; these are located at opposing ends of the dam and passed by the site's north-to-south PROW; whilst they would have a reasonable amount of vegetative screening they would be visible from the users of the PROW. In particular the hut toward the northern extent of the dam would be prominent when entering the site via the PROW from the north and also as approaching from the south. The rural appearance and nature of the huts mean that they are not altogether inconsistent in a rural setting, particularly amongst screening vegetation, however the location of the northern shepherds hut is prominent and also some distance a-way from the sites other buildings which heightens its prominence and perceived harm.

Notwithstanding the above identified failings; the intensity of the use and in particular the vehicular comings and goings is not considered to result in a significant change that would result in harm to the attractive nature of the reservoir and its tranquil setting. This belief is consistent with the Appeal decision, which related to 14 holidays lets and significant amounts of associated facilities. The appeal is a material consideration that this proposal should regard. Although the amount of traffic in the area may have arisen since the Appeal the number of movements and general site activities generated by the proposal would be significantly less than those accepted in the Appeal and is considered to be acceptable here.

It is considered that there may be a solution to the above discussed failings of the proposal, however on the basis of the information available the proposal is considered to fail to respect the character and appearance of the site and therefore is inconsistent with the development plan and particularly Local Plan Policy 10's relevant criteria and Policy 8 (d) of the JCS. The proposal is not considered to have harm on a landscape scale and therefore is not in conflict with Policy 3 of the JCS.

3. Impact on residential amenity

Policy 8 (e) of the JCS and Policy 10 (iv) of the Local Plan consistent with paragraph 127 of the NPPF, seeks to protect amenity, which amongst other things aims to secure a good standard of amenity for all existing and future occupants of land and buildings.

The non-ancillary dwelling-houses at 'The Pump House' and 'Reservoir House' have their own clearly marked private grounds with the log cabins located a way from their curtilages and at least 50m from the houses. This relationship and the low profile of the proposed cabins mean that the proposals would not have any direct impacts to neighbours amenity derived from their built form. Any impacts associated with the site's intensification, with users having to pass by the nearby dwellings to access the site, are not considered to be significant and thereby would not give rise to nuisances that may cause disturbance to neighbours amenity.

The proposal, when coupled together with the facilities available at the Sailing Club building are considered to be adequate for amenities associated with users of the short lets.

The proposal therefore is considered to be acceptable in this respect.

4. Impact on highway safety

Policy 10 (v) of the Local Plan and Policy 8(b) of the JCS consistent with Chapter 9 of the NPPF seeks to ensure that development maintains highway safety.

The highway access onto Eagle Lane has good visibility in either direction and whilst the access arrangements have not been indicated on a plan, the Officers own site cognisance and experiences results in the view that they are appropriate to ensure that the proposal would not result in harm to highway safety. The Appeal decision is also a consideration in this regard, where the proposal was found to be acceptable on matters of highway impacts which considered a significantly more intensive scheme than that proposed here.

In addition, whilst the areas of parking are not clearly illustrated in the submission it envisages that the bulk of the site's parking provision is and will be provided within the sailing club car park. Whilst this is not laid out it could accommodate 20-30 vehicles relatively easily. This amount of provision together with some compacted areas available adjacent to the access track is considered to be sufficient for the four Holiday Lets, which would not likely attract more than four vehicles at a time and those associated with the tea-room with its users likely to be visiting as part of a shared trip associated with the Sailing Club and/or the Holiday Lets.

The precise location of the parking can be required by condition together with a construction management plan primarily to deal with the delivery of the log cabins to the site.

As such and in absence of a Local Highway Authority objection the proposal is not considered to be detrimental to the surrounding highway network.

5. Impact on biodiversity

Paragraph 99 of Circular 06/05 states that: *it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.* Likewise section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that: *every public authority must in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity.*

Policy 10 (iv) of the Local Plan and Policy 4 of the JCS consistent with Chapter 15 of the NPPF seeks decisions to resist development that would harm biodiversity.

Much of the development is located in part of the site that is subject to a woodland tree preservation order and a local wildlife site (LWS). These designations were made in 2008 and 2011 respectively. Whilst the Appeal application did not find against the proposals in this regard, clearly its designations as a TPO area and as a LWS is a material change in site circumstances that has occurred since the Appeal decision. As such and following Officer visits to the site there is reason to believe that the proposal would have an impact on the site's biodiversity including toward protected species and impacts arising from the siting of the Holiday Lets.

It is understood that the applicant has the correct permissions in place with permission to fell trees under a Forestry Commission License this would not however likely extend to the felling of trees associated with a planning permission necessarily. This license would also not mean that the proposal should be allowed to proceed without the required surveys. Such surveys should include an appropriate professionally compiled ecological and arboricultural survey in order to demonstrate that the impacts of the proposal are successfully mitigated and protects biodiversity. In the absence of such surveys and their associated protection measures there is reason to believe that the proposals would result in unacceptable harm to biodiversity.

Consequently and consistent with the advice of Northamptonshire County Council's Ecologist the proposal fails to demonstrate that it would not harm biodiversity. The prohibitive cost of producing such surveys, as mentioned by the applicant, is not considered to be reason to justify setting aside this matter.

6. Impacts of flooding/ reservoir breach

Policy 5 of the JCS consistent with Chapter 14 of the NPPF seeks development to, wherever possible; avoid high and medium flood areas.

The Environment Agency (EA) say that *'the log cabins are located within Flood Zone 1 but are within the area at risk of reservoir inundation on the*

landward side of the reservoir dam. The failure of the dam could lead to rapid inundation which may present a risk to life.'

The EA go on to say that whilst provision of an acceptable Flood Risk Assessment (FRA) and a Flood Warning and Evacuation Plan (FWEP) could overcome this matter they opine that '*...even if a detailed assessment of the impact of a reservoir failure was completed and included a FWEP, given the scale, nature and location of the development, it would not demonstrate that the proposed development is safe for the lifetime of the development.*' The Local Planning Authority is essentially being told by the EA that it is not advisable to have the log cabins located in their current position and instead should be repositioned [understood to be 2m southwards] outside of the reservoir breach extent due to risk to life.

This matter does not appear to have come up in the appeal but nor are all the documents associated with that decision available. It nevertheless is a matter for consideration with every application considered on its own merits mindful of consultation responses received at the time.

Whilst it is not obvious on the ground where the dam failure inundation 'line' starts and ends that line has been drawn by the appropriate Authority and therefore there is no reason to disagree with their view. That being the case and irrespective of whether a FRA including a FWEP has been provided and in adopting a sensible and precautionary approach the proposed log cabins are not sited in a way that would safeguard life in the event of a dam breach and therefore the proposal is unacceptable in this regard.

7. Benefits

The benefits associated with the proposal are those associated with the rural economy as a result of local spend and employment opportunities and the contribution that delivery of the proposal would make toward the maintenance and improvements of the reservoir site.

8. Planning balance

The outlined benefits are considered to have some weight and the proposal is not considered to have an adverse impact to residential amenity, highway safety, adverse impacts to character derived from the proposal's intensity of use and the basic tenet of the proposal is considered to be acceptable. The identified adverse impacts and in particular the failure of the proposal to identify that it would not have an adverse impact to biodiversity and would protect life in the event of a dam breach are outweighing factors that must hold the tilt in any balance.

Conclusion

In light of the foregoing the proposal is in conflict with the Development Plan and thereby the presumption in favour of sustainable development laid out in the NPPF does not apply. Consequently, and with no other material

considerations that would justify coming to a different conclusion the application is recommended for refusal for the reasons laid out.

Background Papers

Title of Document:

Date:

Contact Officer:

Sean Bennett, Senior Development Officer on 01536
534316

Previous Reports/Minutes

Ref:

Date: