
Appeal Decision

Hearing held on 16 August 2016

Site visit made on 16 August 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI

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

Decision date: 23 September 2016

Appeal Ref: APP/L1765/C/15/3140374

Land adjacent to Woody Lodge, Alresford Drove, South Wonston SO21 3HW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr R Memory against an enforcement notice issued by Winchester City Council.
 - The Council's reference is 14/00126/USE.
 - The notice was issued on 12 November 2015.
 - The breach of planning control as alleged in the notice is the material change of use of the land from agriculture to agriculture and residential by the siting and use of a Winnebago and touring caravan for residential purposes.
 - The requirements of the notice are 1. cease the use of the land for residential purposes; 2. remove the Winnebago and touring caravan from the land and 3. remove the washing machine and freezer from the land.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c) and (f) of the Town and Country Planning Act 1990 as amended.
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Procedural Matters

1. The appellant was unrepresented at the hearing and following questions from the inspector agreed that he wished to proceed without professional representation. At the hearing, after discussion of the appellant's ground (c) case, the appellant withdrew the appeal on ground (c). He acknowledges that the Winnebago is not simply used for welfare facilities, but that he is residing on the land in the Winnebago and indicated the ground (c) appeal was made as he has nowhere else to live. This matter will be considered under ground (a).
2. The caravan has already been removed from the land and no representations were made in relation to it.
3. I note that the appellant only moved to the appeal site after being moved on from another location by enforcement officers. While that is the case it does not provide justification for the appeal proposal, which is considered on its own merits.

Decision

4. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Reasons

Ground (a)

5. The development plan includes the Winchester District Local Plan Part 1 – Joint Core Strategy [CS] and saved policies in the Winchester District Local Plan Review [LP]. CS Policy MTRA4 notes that in the countryside, defined as land outside the built-up areas, only certain identified development is permitted. Relevant to this appeal is that development that has an operational need for a countryside location, such as agriculture, may be permitted.
6. LP Policy DP3 sets out general design criteria. LP Policy CE19 notes that the use of land for the siting of a residential caravan or mobile home will not be permitted unless it is for use by an agricultural worker. The applicant must demonstrate that the labour requirement of the holding or activity justifies the worker, a continual presence on the holding is essential to the efficient working and development of the enterprise, there is a firm intention and ability to develop the enterprise concerned and it has been planned on a sound financial basis. Further, existing accommodation on or near the holding must have been found to be inadequate to meet the needs of a worker, and where possible the site should be within an existing group of buildings or well screened. Any development permitted would be for a temporary period, which was acknowledged by the appellant.
7. I consider that the main issues in this case are the effect of the proposal on the character and appearance of the surrounding area and whether there is an agricultural justification for the siting and use of the Winnebago for residential purposes for a temporary period, usually 3 years.
8. The appeal site fronts Arlesford Drove that has open fields on one side and a mixture of some housing and some agricultural land on the other, including some coppices of trees. It is an attractive rural and agricultural landscape and the appeal site is an important part of the countryside, at this transition from the village to agricultural land. There is also a large allotment at the end of the lane. It was agreed as common ground at the hearing that the land is countryside.

Character and Appearance

9. The Winnebago is currently located towards the top of the site, but in any position on the site it is likely to be visible from the Drove and from the footpath at the top of the site. It can also be seen from the drive of the adjacent housing development. The Winnebago, with its harsh, angular and bulky form, is an alien and incongruous feature in this position and causes harm to the important rural character of the area. It conflicts with LP Policy DP3, as in terms of design it does not respond positively to the character and appearance of the area and causes considerable harm, which would be the case even for a temporary period.

Agricultural Need

10. The appellant has produced a detailed business plan. It was explained that various sources had been used for the information provided and that it was undertaken on a conservative basis. The appellant has owned the site for about 2 years, but noted at the hearing that the income from it to date was very minimal. It was acknowledged in response to the council's expert evidence on

agricultural need that some changes could be made in terms of breeds kept and use made of the land. However, no revised evidence was provided for this appeal.

11. A matter of concern is that there have been considerable problems with noise at the appeal site, which is very close to other residential properties. While the noise is associated with the agricultural use, which is lawful and will remain so, it is material in relation to what is likely to be able to occur on site in relation to the business proposals of the appellant. The noise was investigated by the environmental health department and was assessed to cause a statutory nuisance and three noise abatement notices have been issued, one of which is still in place and relates to geese and turkeys on the site. The other notices also related to the agricultural use the appellant was making of the site. In order to comply with the abatement notices the appellant removed some animals from the site, including cockerels and piglets.
12. I accept that when the notices have been placed on the site the appellant has complied with the requirements of two of them and will be complying with the last notice, but has an extension of time in which to do so. However, the fact is that some of the animals identified in the business plan are those that have been involved with the noise abatement issues, and that was when the appellant indicated that the current use had generated minimal income. The keeping of these animals could cause similar difficulties in the future and may not be able to be kept there. This means that the weight to be placed on some aspects of the business plan is reduced.
13. The appellant argues that there is an agricultural use of the land, so some use must be able to be made of it. I accept this, but clearly the uses would need to be carefully considered given the proximity to houses and there are agricultural uses that have much less impact on amenity than others.
14. The council's expert also noted that there are some costs identified as capital costs that might be expected to be seen in the revenue projections, such as rental figures, and some additional costs, such as depreciation, which do not appear to be included in revenue costs and potentially may have a negative impact on the overall cost projections. From this I conclude that while the appellant may indicate that he has a firm intention of developing the agricultural use, the business plan does not demonstrate that it is proven on the balance of probability that the business is planned on a sound financial basis.
15. It is also agreed that all the animals identified in the business plan could not be kept on the appeal site and the appellant identified other land including some about a ¼ of a mile away (3 1/2 acres) and more (56 acres) about 10 miles away at Kings Somborne available to him, but not currently rented by him. Given the potential distance to some of this land, it does little to demonstrate the need for the accommodation at the appeal site, which is relatively much smaller. In addition, this does not provide much support for the argument that there is an essential need for a presence at the appeal site for security and efficient working and development of the enterprise, even accepting that some of the animals could be moved to the appeal site that were about to have young or in need of particular care.
16. The appellant has not provided a labour breakdown for the agricultural unit, but indicated at the hearing his intention to remain in his current employment,

running it down over 3 years when he would be full time on the unit. This again does not indicate the need for a full time presence, although the appellant indicated that his family would labour at the site when necessary. While I acknowledge they would work for nothing, this is a labour cost that I would expect to see in the business plan in order that there is a realistic figure at the end in terms of profit.

17. The council's expert concluded that the business plan does not demonstrate that the requirements of LP Policy CE19 have been met and I agree with that conclusion. The proposal conflicts with LP Policy CE19 and CS Policy MTRA4.

Other Matters and Planning Balance

18. In terms of the National Planning Policy Framework, sustainable development is identified as being made up of social, environmental and economic roles. I acknowledge there would be some social and economic benefits in providing accommodation and agricultural use, but given the environmental harm to the countryside I conclude on balance that this would not be sustainable development in terms of the Framework.
19. The appellant identifies the difficulty in finding accommodation either in bricks and mortar accommodation or on a site for the Winnebago, which currently is not roadworthy. In particular, the cost of accommodation and rental is put forward as an impedance to finding accommodation. While I accept that this is a high cost area, the appellant has an income, has substantial investment in the form of the land and could continue to work the land in a way appropriate to its location. The council has identified that there are some properties available locally. I attach limited weight to finding accommodation.
20. I have also considered the appellant's medical situation and fact that he would have difficulty with accommodation with stairs. While sympathising with this I do not consider that the evidence adds significant weight to the case for a need to be at the appeal site as other accommodation does not necessarily have to have stairs or be away from medical facilities.
21. The appellant would lose his home and his family life would be disrupted if the enforcement notice is upheld. That would represent a serious interference in his human rights. I consider that it is possible he would have to resort to either short term staying on other sites, or have to take conventional accommodation, which he indicated would be objectionable as his dream is to stay on the site. I attach weight to this need and effect of the interference.

Ground (f)

22. The appellant suggests the accommodation is needed for welfare facilities associated with the agricultural use of the land. While it is acknowledged that some limited facilities may be appropriate and justified, that would not include the substantial accommodation provided by the Winnebago. The council indicate that appropriate sized accommodation would be considered if an application is made. The removal of the Winnebago and associated domestic appliances is reasonable and does not exceed what is necessary to remedy the breach identified. The appeal fails on ground (f).
23. I conclude that the interference with the appellant's human rights is justified and the interference would be no more than is necessary to control the use of the site in the general public interest.

24. Overall, I conclude that the appellant has not demonstrated on the balance of probability an agricultural need justifying a permanent or temporary permission for agricultural accommodation or that the proposed use accords with the requirements of LP Policy CE19 and CS Policy MTR4A. The appellant's personal circumstances do not outweigh or justify the conflict with development plan policies and the impact on the countryside, so the appeal is dismissed.

Graham Dudley

Inspector

