

# Appeal Decision

Site visit made on 5 September 2016

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 27 September 2016**

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## **Appeal Ref: APP/Y9507/W/16/3150209**

### **Blue Moon Caravan, Green Lane, Hambledon, Hampshire PO7 4SY**

- 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 L Brooke against the decision of the South Downs National Park Authority ('the NPA').
  - The application, Ref. SDNP/15/06425/FUL, dated 15 December 2015, was refused by notice dated 5 May 2016.
  - The development proposed is the construction of a replacement dwelling.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matter**

2. The NPA's Notice of Refusal includes a reason stating that '*The proposed development is contrary to Policy CP3 of the Winchester District Local Plan Part 1 – Joint Core Strategy in that it fails to make appropriate provision for affordable housing*'. However, since the refusal of permission an Order of the Court of Appeal dated 13 May 2016 gives legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014. Subsequent amendments have been made to Paragraph 031 Reference ID: 23b-031-20160519 of the Government's Planning Practice Guidance 2014. In the light of these the NPA confirmed in a letter dated 26 September 2016 to the Planning Inspectorate that it did not wish to defend this reason for refusal.

### **Main Issue**

3. The main issue is whether the proposed development would be acceptable on this site having regard to local and national policy for the protection of its landscape and all other material considerations.

### **Reasons**

4. The Notice of Refusal cites just two policies as the basis for the rejection of the appeal scheme. These are Policy MTRA 4 of the Winchester Local Plan Part 1 – Joint Core Strategy 2013, which restricts development in the countryside, and saved Policy CE.23 of the Winchester District Local Plan Review 2006, which permits the replacement or extension of dwellings in the countryside subject to a number of provisos.
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5. The restrictions within Policy MTRA 4 mean that for the appeal proposal to comply with the development plan it must be justified within the terms of Policy CE.23. For the appellant it is argued that material considerations are such that the appeal proposal can be reasonably considered under this policy: (i) the long standing residential use; (ii) the physical characteristics of the mobile home that convey a perception of permanence; (iii) the inevitability of the continuance of residential use on the site whatever the outcome of the appeal and that a replacement permanent dwelling would make little difference, and (iv) the Inspector in appeal ref. APP/L1765/A/11/21599950 at Blackhorse Farm concluded that an existing mobile home would enable a replacement to be considered under Policy CE.23.
6. However, whilst I have noted these points I consider it important for the principle of the development to be addressed firstly on what the Policy CE.23 actually says and how this applies to the appeal proposal. This is succinctly and clearly explained by the Inspector in paragraph 7 of the 2014 appeal decision ref. APP/L1765/A/14 /2216655 for a very similar proposal at Five Oaks Farm, Winchester Road, Shedfield.
7. I agree with this assessment, which in summary is that the policy relates to 'replacement dwellings', and because a mobile home is in planning law a use of land and not a 'dwelling' it cannot by definition fall within the remit of the policy. The consequence of this is that Policy MTRA 4 precludes the proposal and items (i) to (iv) in paragraph 5 above are material considerations that may or may not justify an exception being made to this policy.
8. In addition the appellant's statement of case sets out further material considerations in the form of other decisions on planning applications; an appeal decision in the New Forest National Park; the more sustainable construction of the proposed dwelling compared with the mobile home, and a fall back position of a larger mobile home closer to the road resulting in increased visual intrusion.
9. I acknowledge that these factors deserve weight in the planning balance and cumulatively, substantial weight. In many countryside locations that weight might well have been sufficient to warrant the grant of permission; however, paragraph 115 of the National Planning Policy Framework 2012 ('the Framework') and Circular 2010 explain that National Parks have the highest status of protection in relation to their landscape.
10. Accordingly I consider that if exceptions are to be made to Policy MTRA 4 the 'other material considerations' must clearly outweigh the normal preclusion of new dwellings in countryside designated as a National Park. However, I take the view that the on-site circumstances in the case of Blue Moon are considerations that do not establish a weight sufficient to do this.
11. As regards the other cases mentioned, four are in a National Park and only one was granted permission, this being the Shoreham development in 2010 – two years prior to the Framework and on the basis of a report that does not refer to Circular 2010. None of the three appeal decisions actually granted permission, albeit in two of them the dismissals were for reasons other than the issue of whether a replacement dwelling would be acceptable.

12. Overall, I conclude that the proposed development would not be acceptable on this site having regard to local and national policy for the protection of its landscape and all other material considerations. In particular it would not fall within the scope of Policy CE.23 and would be in harmful conflict with Policy MTRA 4 and Government policy in the Framework.
13. I am also concerned that if I were to allow the appeal as an exception to local and national policy the Decision would make it difficult for the NPA to resist similar proposals in the National Park that would cumulatively have an adverse effect in terms of the objectives in the Framework and Circular 2010.
14. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

*Martin Andrews*

INSPECTOR