

Appeal Decision

Hearing held on 1 September 2016

Site visit made on 1 September 2016

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 5 October 2016

Appeal Ref: APP/L1765/W/16/3152798

Chestnut Cattery, Southwick Road, Wickham Common, North Boarhunt, Hants PO17 6JG

- 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 and Mrs Nick Pragnell against the decision of Winchester City Council.
 - The application Ref 16/00161/FUL, dated 20 January 2016, was refused by notice dated 6 May 2016.
 - The development proposed is the siting of a mobile home for a temporary period of 3 years for occupation by a worker employed at Chestnut Cattery.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of a mobile home for a temporary period of 3 years for occupation by a worker employed at Chestnut Cattery at Chestnut Cattery, Southwick Road, Wickham Common, North Boarhunt, Hants PO17 6JG in accordance with the terms of the application, Ref 16/00161/FUL, dated 20 January 2016, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue in this case is whether there is an essential need for a worker to live on the cattery site to ensure the efficient working and development of the enterprise.

Reasons

3. Saved Policy CE.22 of the Winchester District Local Plan Review 2006 (LPR) states that the development of dwellings in the countryside for workers employed in enterprises not connected with agriculture or forestry will not be permitted unless an essential need can be demonstrated, using the criteria for agricultural workers' accommodation as set out in saved Policy CE.19.
 4. Criteria (ii) and (iv) of Policy CE.19 are most relevant to the Council's case. These require the applicant to demonstrate that a continual presence on the holding is essential to the efficient working and development of the enterprise. Existing accommodation on or near the holding must be inadequate to meet the needs of the worker.
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5. The National Planning Policy Framework (the Framework) states at paragraph 55 that local planning authorities should avoid new isolated dwellings in the countryside unless there are special circumstances such as the essential need for a rural worker to live at or near their place of work. The above development plan policies are consistent with this aspect of the Framework.
6. Chestnut Cattery has been operating for 8 years and is now a well-established business. It is licensed¹ to accommodate up to 42 cats at any one time. The enterprise was set up by Mr and Mrs Hirst who are the occupiers of 'Chantilly' adjoining the site. They are longstanding residents, having lived in the property for the past 30 years. Unfortunately, Mrs Hirst (the sole licence holder) has developed health issues which mean that she is now unable to take an active role in the business. Her husband has been managing the cattery in the interim, and carries out a routine late night check, but this is not a practical long term solution.
7. Therefore the proposal is to transfer ownership of the enterprise to Mrs Pragnell who is currently a full time employee at the cattery. Her experience and ability to run the business is not in dispute and I am satisfied that there is a firm intention to develop the enterprise. I heard that the aim is to construct two additional cattery units which already have planning permission. These would increase the capacity of the site by up to 20 cats. Projected income and expenditure figures indicate that the enterprise would be sufficiently profitable to reward the appellants' labour and enable further investment in the business.
8. The Council contends that it is not essential for a worker to be resident at the cattery. The licence conditions stipulate that a fit and proper person aged 18 or over must always be present to exercise supervision and deal with emergencies whenever cats are boarded at the premises. The Senior Animal Welfare Officer has confirmed that there is no requirement for a person to live on-site in order to obtain a licence. However, the Council did not contest the assertion that there are no cattery businesses operating without a resident proprietor within the local planning authority's area, or in neighbouring Fareham.
9. It seems to me that there are good reasons for this. Many catteries will of course be set up within the grounds of existing dwellings. However, it is also the case that owners are unlikely to entrust their pets to an establishment where the proprietor does not live on site. In its appraisal on behalf of the Council, Bruton Knowles concedes this point. At the hearing I heard from existing customers who stated that they would not be happy to leave their animals at the cattery without a person living on-site to provide security and supervision – even with the use of monitoring equipment and CCTV cameras that could be linked back to the operator's home.
10. This is partly a psychological issue. Chestnut Cattery is separated from Chantilly by trees and therefore it is not within sight or sound of the dwelling. That said, the proximity of the dwelling facilitates regular ad hoc visits and provides comfort and reassurance for pet owners. In my view, without a proprietor living on or immediately adjacent to the site the cattery would struggle to attract or retain clients. This poses a significant threat to what is presently a successful and thriving business. I saw during my inspection that the bookings diary is populated many months ahead.

¹ Under the Animal Boarding Establishments Act 1963

11. During the hearing I heard that boarded cats frequently need to be given medication for pre-existing conditions. There have also been emergencies where animals have had to be taken to the vets out of hours. Whilst I accept that in many instances the latter situations can be picked up during routine checks, this will not always be the case. In my view, regular supervision of cats is essential to the efficient running of the business. This lends considerable weight in favour of the case for a worker to live on-site.
12. It has been argued that the cattery is already served by Chantilly. However, that property is not tied to the business and it is not presently available. The Council suggested at the hearing that planning policy should not be expected to 'bend' to accommodate personal circumstances. However, I am entitled to take those circumstances into account and in this particular case I consider that it would be unduly harsh to expect Mr and Mrs Hirst to vacate their home of 30 years in order to ensure the survival of the business.
13. It has been put to me that the needs of the cattery could be met from another existing dwelling within reasonable travelling distance of the site. The Council indicated that it would be prepared to vary agricultural occupancy conditions to facilitate this. However, it could identify only one available property within a one mile radius. At offers over £500,000 this is unlikely to be affordable. Moreover, it is not within sight or sound of the appeal site and would not provide the necessary reassurance to pet owners regarding security. There can also be no certainty that a licence would be granted on this basis. Indeed, the Council was unable to be specific regarding how close a key-holder must live in order for a licence to be issued.
14. Without a resident proprietor there is a high probability of the business failing. Given the support contained within Paragraph 28 of the Framework for economic growth in rural areas, this outcome would be highly undesirable. I have therefore given this factor significant weight as a material consideration.
15. Drawing matters together, I agree with the local planning authority that there is an important distinction to be drawn between residential accommodation being essential and desirable. In theory, it might be possible for the cattery proprietor to live off-site, using cameras and remote monitoring equipment if necessary. There is no substantive evidence to demonstrate that such technological measures are prohibitively expensive. However, I am not persuaded that this solution is practical in the context of the existing business. The animal welfare benefits of living on-site and need for supervision and security create a convincing case in favour of allowing the appeal.
16. Accordingly, I conclude that it is essential for a person to live on the cattery site to ensure the efficient working and development of the enterprise. The proposal therefore complies with saved Policy CE.22 of the LPR.

Conditions

17. I have considered the matter of conditions having regard to the discussions at the hearing and advice contained in Paragraphs 203 and 206 of the Framework and the Planning Practice Guidance (PPG).
18. A condition is required to secure the removal of the mobile home after 3 years. This reflects the temporary nature of the proposal and will enable the Council to

give separate consideration to any future proposal for a permanent dwelling, having regard to the profitability of the enterprise.

19. A condition is also necessary to restrict occupancy of the mobile home to a person solely or mainly working at Chestnut Cattery, their partner/spouse and any resident dependents. This is in recognition of the fact that an unrestricted dwelling would not otherwise be granted in this countryside location.
20. The Council also made the argument for a condition tying occupancy of the mobile home to the appellants. I am mindful of PPG advice that such conditions should be used only exceptionally. In my view, the above conditions are sufficient to achieve the planning objectives and therefore a personal condition cannot be justified in this case.
21. The maximum dimensions of the mobile home will be governed by separate legislation². However, in the interests of protecting the character and appearance of the area a condition is necessary to ensure that the Council retains control over the precise size and positioning of the mobile home within the site. Whilst I note the appellants' concerns regarding timescales for discharging conditions, this is not a matter which should influence whether a particular condition meets the Framework tests.
22. It is also appropriate to require the submission of details of waste water disposal, in the interests of ensuring satisfactory living conditions for future residents and preventing pollution. There was some discussion at the hearing regarding the need for a condition to secure the retention of existing vegetation on the north and east site boundaries. However, in the context of a temporary permission I am not persuaded that such a condition would be reasonable or necessary.

Conclusion

23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Robert Parker

INSPECTOR

² Section 29(1) of Caravan Sites and Control of Development Act 1960 and Section 13 of Caravan Sites Act 1968

APPEARANCES

FOR THE APPELLANT:

Eric Cox DMA ACIS (Ret'd)	Planning consultant
Graeme Willis MRICS	Chartered surveyor
Nick Pragnell	Appellant
Claire Pragnell	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Cornwell BA Dip TP MSc MRTPI	Planning Officer
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INTERESTED PARTIES:

Mark & Angela Newman	Cat owners and customers of Chestnut Cattery
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DOCUMENTS SUBMITTED AT THE HEARING

1. Statement of Common Ground
2. Map showing locations of sites listed in Appendix G of Council's evidence
3. Extract from RightMove – 4 bed property in Trampers Lane, North Boarhunt
4. Newspaper advertisement for Wickham Court – over 45's only

SCHEDULE OF CONDITIONS

- 1) This permission shall be for a temporary period only and the mobile home shall be removed from the site by 20 October 2019 and the land restored to its former use. In the event that the business known as Chestnut Cattery ceases to trade for a period in excess of 6 months then the mobile home shall be removed from the site and the land restored to its former use.
- 2) Before the mobile home hereby permitted is first brought onto the land a plan showing its size and positioning within the site shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) Before the mobile home hereby permitted is first brought onto the land details of the intended method for the disposal of waste water from the mobile home shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the mobile home being first brought into use and shall be retained and maintained so long as the home is occupied.
- 4) The occupation of the mobile home hereby permitted shall be limited to a person solely or mainly working at Chestnut Cattery, their partner/spouse and any resident dependants.