
Appeal Decision

Site visit made on 4 November 2016

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 25 November 2016

Appeal Ref: APP/P1560/W/16/3154616

Westwood Park, Flag Hill, Great Bentley, Essex CO7 8RE.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Westwood Park Homes against the decision of Tendring District Council.
 - The application Ref 16/00172/FUL, dated 3 February 2016, was refused on 31 March 2016
 - The application sought planning permission for the removal of condition 3 of 14/01440/FUL and Condition 11 of 13/01028/FUL. Change to occupancy of mobile homes to sole residences for occupiers.
 - The conditions in dispute state that: *"The mobile homes shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners of mobile homes on the site and of their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority".*
 - The reason given for the conditions is: *"To ensure that the accommodation remains in holiday use in support of planning policies aiming to encourage tourism and does not become a permanent residential use."*
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Decision

1. The appeal is allowed and planning permission is granted for the removal of condition 3 of 14/01440/FUL and Condition 11 of 13/01028/FUL to allow occupancy of mobile homes as sole residences at Westwood Park, Flag Hill, Great Bentley, Essex CO7 8RE in accordance with the terms of the application, Ref 16/00172/FUL, dated 3 February 2016, subject to the following conditions:

Preliminary Matters

2. The Council concede that it cannot demonstrate a 5 year supply of housing and that elements of its development plan are out of date. In such situations paragraphs 47 and 49 of the *"National Planning Policy Framework"* (the Framework) state that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
 3. Both parties have referred to policies in the emerging *"Tendring District Local Plan 2013-2033 and Beyond Preferred Options Document"*. However, I concur with the Council that due to its infancy, little weight can be ascribed to its policies at this stage.
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Main Issue

4. In light of the above, the main issue is whether the disputed conditions are reasonable and necessary, having particular regard to whether the occupation of the homes as a person's sole or main place of residence is acceptable in terms of current planning policy and guidance and the principles of sustainable development; and whether the requirements of the conditions meet the tests set out in the Framework and Planning Practice Guidance.

Reasons

5. The appeal site comprises a self-contained development of 23 detached chalets arranged around a private estate road with access from the B1027 Flag Hill approximately 5 miles north-west of Clacton-On-Sea. Despite the presence of sporadic development in the locality, the area is unmistakably rural.
6. The appellant seeks to remove that condition which currently prevents any of the homes being occupied as a person's sole or main residence contending that this would be commensurate with the principles of sustainable development.
7. It is clear from the Council's evidence that the site has a protracted planning history. Of particular relevance to the appeal scheme is the original planning permission for a change of use to a holiday mobile home park in April 2012¹. There was no stipulation on this permission for the time limits for occupation, meaning that occupation of the units could vary from short term holiday lets to much longer periods. In November 2013 the Council granted consent for the variation of condition 11 attached to that permission². This allowed the homes to be occupied on an all year round basis. In 2014 permission was granted for the extension of the site. Insofar as the appeal scheme is concerned, the salient points are that the units are capable of being occupied all year round without a restriction on the length of occupancy provided it is not the occupiers main or sole residence.
8. In its refusal reasoning the Council cites conflict with Policies ER18 and ER20 of the "*Tendring District Local Plan 2007*" (the LP). Policy ER20 is concerned with restricting the occupation of holiday units between January and March. Amongst other things, one of the reasons given for the policy is to prevent the loss of tourist accommodation. For similar reasons, Policy ER18 seeks to safeguard chalet parks from redevelopment for alternative uses.
9. There is no doubt that the units are constructed to a high specification in terms of insulation and offer a high level of comfort. It is also relevant that the original planning permission specifically refers to a '*holiday mobile home park*'. Therefore and although I do not know the exact circumstances of that case, it is not unreasonable to consider that as the site lies outside any development boundary and in a location where new dwellings would not normally be acceptable, that the tourism element of the scheme was a material consideration in granting planning permission.
10. However, no evidence has been adduced by the Council to suggest there is a shortage of tourist accommodation in the district or that the appeal site makes an important contribution in that regard. On the contrary, the appellant claims that the units have never been available to rent by third parties as short-term

¹ LPA Ref: 12/00160/FUL

² LPA Ref: 13/01028/FUL

holiday accommodation and therefore the removal of the conditions would not significantly alter the use of the site nor would it amount to redevelopment. Additionally, the site lacks the kind of shared facilities one would normally associate with a holiday park. Consequently, I concur with the appellant that the argument the proposal would displace accommodation intended for tourism or would have an unacceptable impact on tourism or the local economy more generally, is tenuous and unsupported by substantive evidence.

11. I accept that the site is poorly located in terms of access to local services and employment areas and residents would be largely reliant on the use of a private motor car. However that is the case for residents now and the Council has not provided any evidence to demonstrate that either the frequency or length of trips to/from the site would increase as a result of the removal of the disputed conditions. Accordingly, I am unable to conclude that there would be any material conflict with the aims of the Framework *"to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable"*.
12. I appreciate concerns about the creation of a precedent for other similar developments. However, whilst I have considered this point, no directly comparable sites to which this may apply have been put forward, and in any event each application and appeal must be determined on its own individual merits, and a generalised concern of this nature does not justify the withholding of permission in this case.
13. Overall, I find no tangible evidence to support the Council's view that the proposal would result in the loss of an important tourism use. Moreover, there would be no significant adverse effects in terms of the *environmental, social* or *economic* roles of sustainable development. The scheme would however make a modest but not insignificant contribution towards the Council's housing stock which given its acknowledged housing land supply deficit, is a material consideration to which I attribute significant weight.
14. Based on the foregoing, and given the very particular circumstances of this case, I conclude that the disputed conditions are not necessary and reasonable. The proposal would not therefore conflict with Policies ER18 and ER20 of the LP nor advice in the Framework. It therefore follows that the adverse impacts of granting development would not significantly and demonstrably outweigh the benefits.

Conclusion

15. For the reasons given above and taking into account of all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector