
Appeal Decision

Site visit made on 22 November 2016

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 28TH December 2016

Appeal Ref: APP/R2520/W/16/3155867

Lakeview (formerly Sleaford Ballast Pits), Mareham Lane, Kirkby la Thorpe, Mareham, Lincolnshire

- 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 Kinvena Homes Ltd against the decision of North Kesteven District Council.
 - The application Ref 14/1480/VARCON, dated 6 November 2014, was refused by notice dated 25 February 2016.
 - The application sought planning permission for use of land for formation of caravan site, erection of warden's bungalow and formation of new fishing lake without complying with a condition attached to planning permission Ref N/34/1147/02, dated 20 December 2002.
 - The condition in dispute is No 4 which states that: *The static caravans hereby permitted shall be occupied as holiday homes only and not used as residential accommodation as a main residence.*
 - The reason given for the condition is: *To ensure that none of the caravans is occupied as permanent dwellings contrary to the rural housing policies of the Local Planning Authority.*
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The emerging Central Lincolnshire Local Plan (CLPP) has been submitted to the Inspector and is in the examination phase. As such I give the relevant policies contained within the CLPP, moderate weight.
3. There is a fall-back scheme in that the appeal site (Lakeview) has an extant permission¹ for development as holiday accommodation for static caravans. The appellant argues that the extant permission does not restrict the type or number of static caravans sited on the site, and that the site could reasonably accommodate 350 caravans. A layout has been provided to demonstrate how 331 caravans could be arranged². The Council has confirmed that the Caravan Site Licence (CSL) issued in October 2007 limits the number of caravans to 180 units and no new application for an increased number of units has as yet been applied for. However, I find no reason to disagree with the appellant's

¹ Ref N/34/1147/02

² Dwg. W2038/MP01 Rev A

argument that more units could be accommodated under the extant permission. For the purposes of my reasoning, I will proceed on the basis that the fall-back scheme is around 330 caravans for holiday use.

4. Although the proposed number of mobile homes for permanent accommodation varies between documents in the information before me, the appellant's statement indicates that the current intention is to locate 149 mobile homes at Lakeview. This is also the number also used in the transport statement³ which specifically addresses the issues of sustainable transport options issues arising from the Council's reasons for refusal.
5. The appellant's statement of case notes that the relevant policies are those contained within the adopted North Kesteven Development Plan (UDP), March 2010. However, the Council's decision notice refers to saved Policy C2 of the North Kesteven District Council, Local Plan, adopted 2007 (LP) and it is this policy that I have referred to in my reasoning.

Background and Main Issue

6. The application for the extant permission was presented to the Council as a tourist and recreational facility. In 2008 permission was sought to remove Condition 5 of the original permission which prohibited occupancy for one week every February, and this was approved⁴ subject to a further condition, setting out measures to ensure that the holiday accommodation was not used for permanent residential use.
7. The evidence before me indicates that the determinative factors in this appeal are Lakeview's degree of connectivity to local services, and whether the nature of demands and associated vehicle movements generated by permanent residential occupancy would be markedly different from that of the extant permission, that is, holiday accommodation.
8. Accordingly, the main issue is whether the condition is reasonable and necessary having regard to relevant local and national policies for siting development in sustainable locations.

Reasons

Sustainable transport options

9. Lakeview lies some 1.5 miles from the centre of Sleaford and comprises a former ballast extraction site and agricultural land. It is linked to Mareham Lane by an access track of some 100 metres in length. Mareham Lane is a rural road which does not have street lighting or footways until it reaches the outskirts of Sleaford, some 800 metres away. There is a public footpath linking Mareham Lane to the town centre, largely routed across fields, which joins Mareham Lane about 100 metres from the end of Lakeview's access track.
10. LP Policy C2 states that planning permission will be granted for development in the countryside provided that it will maintain or enhance the environmental, economic and social value of the countryside, protect and where possible enhance the character of the countryside and where such development cannot be located within or adjacent to a settlement, will not attract or generate a

³ Morgan Tucker, Traffic and Transport Technical Note, August 2016

⁴ 08/0148/VARCON

large number of journeys and is located to provide opportunities for access for access by public transport, walking or cycling.

11. The appellant argues that the Council has considered the application for the removal of the condition as a new development. I see no reason to disagree with this approach as were the appeal to be allowed, it would be a different form of development from the extant permission and one that would generate journeys of a different nature. Furthermore, the Council has specifically referred to the comparability of journeys allowed under the extant permission in its reasons for refusal and this is the approach I have also taken in my reasoning. Consequently, I have given LP Policy C2 full weight.
12. The transport statement⁵ states that the demand for pedestrian or cycling routes to Sleaford would be unlikely to be high, given the proposed age of the development's occupiers. However, it cannot be assumed that an individual's age determines their willingness to walk or cycle to nearby shops, particularly if there is a safe, lit and all-weather route available. Furthermore, if future occupiers are retired or semi-retired they are more likely to have time to use public transport, or to walk or cycle to shops.
13. Although there is a public footpath to the town centre, a considerable length crosses grass and agricultural land, which would deter future occupiers of Lakeview from using the footpath link particularly in the dark, in the winter months or in bad weather. As the only alternative to the public footpath would be Mareham Lane, which lacks footways and is subject to the national speed limit for much of the distance to Sleaford, I conclude that there would not be a safe walking or cycling route to Sleaford and that Lakeview does not have adequate connectivity in this regard. I note that were the appeal to be allowed the appellant would be required by condition to construct a 100 metre section of tarmac footway on Mareham Lane to link Lakeview's access to the existing public footpath. However, such a limited length along the road would not address the issues I have identified above.
14. The appellant argues that there is an existing bus service on Mareham Lane⁶. The evidence before me indicates that this is infrequent, with just two round trips between Sleaford and Billingham for service 001 on weekdays in term time only, and timed primarily to serve the school day⁷. It appears from the timetable that there is no weekend or evening service. Although there is some inconsistency in the evidence before me regarding the frequency of this service, it does not alter my reasoning that this level of service would be insufficient to provide a regular service for permanent residents wishing to access shops and other local amenities. I note that were the appeal to be allowed, the highways authority has suggested the imposition of a condition to ensure a bus stop is provided near the site entrance. However, this would not alter the unsatisfactory frequency of the service.
15. I appreciate that the development would be within some 1.2 miles of the train station. However, without a safe, all-weather and lit walking route or convenient public transport connections, access to trains or further bus connections, would require the use of taxis or private vehicles.

⁵ Morgan Tucker, Transport Statement, March 2015

⁶ The 37 bus service is considered in other matters

⁷ Sleafordian 001 Sleaford to Billingham timetable from 1 April 2015

16. The appellant argues that a private minibus facility would improve the sustainability of the appeal site and that this would be operated along the same basis as a similar facility at The Elms, Torksey⁸. The evidence before me indicates that this is a facility at least partly funded and run by residents of The Elms on a volunteer basis. The frequency of trips is dependent upon demand, and the availability of volunteer drivers.
17. I am aware that The Elms is considerably more remote from its nearest towns than Lakeview, and contains more than double the number of homes proposed for the appeal before me. Consequently, the pattern and volume of demand for services is unlikely to be directly comparable. Given the distance to nearby towns from The Elms it is also likely that residents would be more inclined to car share and to plan visits, than would be the case for Lakeview, where shops and services are very much nearer.
18. The evidence before me includes sampling data for vehicle movements at The Elms. However, this does not indicate to what extent the minibus is substituting for or complementing journeys by private car. As such, on the basis of the evidence before me I am unable to conclude that the minibus at The Elms is providing a genuine alternative to the private car. Moreover, given the reduced number of residents to share the cost or driving duties at the proposed mobile home park, I am not satisfied that it would provide a service of sufficient regularity and dependability to satisfactorily address the issue of accessibility to Sleaford town centre.
19. My attention has been drawn to a similar appeal at The Wolds⁹. This concerned an application to remove a condition restricting occupancy on a recreational site located some 1.2 miles from Caistor. The Inspector concluded that the limited bus service provision and the lack of a safe walking route did not provide sufficient transport alternatives. Furthermore, the scale of the development, (which at 60 units was considerably less than that proposed at Lakeview), would create an unacceptable number of car based trips.
20. The evidence before me indicates that it was this appeal which influenced the Council's decision to refuse permission for the proposals before me. Although the appellant notes that a resubmitted application for The Wolds has now been approved, this includes (subject to the signing of a Section 106 agreement), a financial contribution to affordable housing and the delivery of a regular bus service between the site and Caistor, with a frequency to be secured by legal agreement. It also includes the provision of a 1.5 metre wide footway for a distance of some 0.5 miles, to link The Wolds to the existing highway footway network. There are no such measures proposed in the appeal before me to improve the connectivity of Lakeview to Sleaford.
21. Consequently, although the appellant states that the appeal site is sustainable as Sleaford is some 1.2 miles away, I have concluded that there would not be a safe route all-weather route to walk or cycle to the town, whether on the road or on the public footpath. Furthermore, there is a very limited public bus service to Sleaford and for the reasons given above, I am not satisfied that a voluntary bus facility, run by residents, would provide a realistic alternative.

⁸ This is a park home development for the over 50's, operated by the appellant.

⁹ APP/N2535/W/14/3001260

Travel demand

22. With regard to the comparative nature of the demands for travel and vehicle movements associated with the proposed mobile home park, the appellant has provided modelling data to support the assertion that its traffic generation would not differ significantly from that of the extant permission.
23. The data used to estimate traffic generation associated with the mobile home park has been collated from a traffic count at The Elms, undertaken over a period of days in June 2016¹⁰. The data for the extant permission has been generated using standard TRICS¹¹ data from a static caravan site in Felixstowe, sampled on a weekday in May 2008. As I have noted above in respect of the on-site minibus, I am not satisfied that the location of The Elms makes it directly comparable with Lakeview with regard to travel demand. Nor am I convinced that the Felixstowe data is directly comparable to the extant permission as although the site has static caravans, it is a coastal location likely to attract families with small children. Lakeview is an inland site whose original application was presented as a tourist attraction with an on-site fishing lake which would be likely to attract a different clientele. As such, I give the conclusions drawn from the modelling exercise only moderate weight.
24. Notwithstanding my reservations with regard to the comparability of the data used in the modelling, the technical note¹² concludes that the traffic generation for the mobile home park in traditional peak hours would be similar to that of the extant permission¹³. However, there is nothing in the evidence before me to indicate that the Council has raised concerns with regard to highway capacity or safety, and as such comparative traffic generation in traditional peak hours is not a determinative factor for this appeal.
25. I also note that there is a slightly different pattern of journeys between the modelling for the proposed mobile home park and the extant permission. The traffic generation model for the proposed mobile home park shows that the hours between which the number of vehicles per hour would exceed the mid-point of the range¹⁴ would be between 0800 hrs and 1700 hrs. The traffic generation for the extant permission shows that it is between 0900 hrs and 1500 hrs, and 1600 hrs and 2000 hrs, that vehicle movements would be in excess of the mid-point of the range¹⁵. I recognise that the model for the extant permission uses a figure of 350 caravans to generate the estimate, but it is the pattern of vehicle movements that is of interest, rather than the absolute numbers, as it is this that indicates that the pattern and nature of travel demand between holiday and permanent use, would not necessarily be comparable.
26. For The Wolds appeal, the Inspector concluded that although holiday visitors would be likely to use a car to access attractions, shops, pubs and restaurants, they would be unlikely to make trips for work, education or medical care, or require home deliveries by retailers or have regular visits from friends and family. I would add to that that holiday visitors would be unlikely to make regular journeys to visit friends or family, or engage in other social activities or

¹⁰ Morgan Tucker, Traffic and Transport Technical Note, August 2016

¹¹ Trip Rate Information Computer System

¹² Morgan Tucker, Traffic and Transport Technical Note, August 2016

¹³ Section 4.2.3, Morgan Tucker, August 2016

¹⁴ Above 21 vehicles per hour, where there is a range of 0 – 42 vehicles per hour

¹⁵ Above 20 vehicles per hour, where there is a range of 0 – 41 vehicles per hour

hobbies. The Inspector for the Wolds appeal also noted that people over 50 years old may still have transport requirements associated with work or child-care. As such, she concluded whilst the permitted holiday use at The Wolds would result in car-based journeys, they would not be comparable in terms of consistency throughout the year and the frequency of trips to access day to day services, compared to traffic generated by permanent accommodation. On the basis of the evidence before me I find the proposal for a mobile home park at Lakeview comparable both in location and connectivity to The Wolds. As such I see no reason to disagree with that Inspector's broad conclusions with regard to a difference between the travel demand arising from holiday and permanent accommodation, as this view is reinforced by the modelling data before me.

27. The appellant has also extrapolated data from The Elms to estimate journeys associated with residential use of Lakeview, and compared journeys generated by a conventional residential development. However, I do not consider this to be of relevance to this appeal as the fall-back scheme is for holiday accommodation. I appreciate that the site is identified in the Council's Strategic Housing and Economic Land Availability Assessment. However, this does not give the site any planning status and it does not alter my reasoning in respect of the suitability of the site for permanent residential accommodation with regard to connectivity and sustainable transport options.
28. Paragraph 17 of the Framework, states that planning should 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. The development would not provide opportunities for access to amenities and services by public transport, walking or cycling. It would therefore be contrary to Paragraph 17 of the Framework, as well as LP Policy C2, both outlined above. It would also fail to meet any of the exceptions contained within Paragraph 55 of the Framework with respect to the siting of isolated dwellings in the countryside.

Other matters

29. The appellant has stated that little weight can be attached to the Council's assertion that it has a five year housing land supply as it does not form part of the development plan. Whilst I acknowledge that the housing land supply figures are as yet unconfirmed¹⁶, the evidence before me indicates that the Council has undergone a process of collating information and the evidence before me contains the latest information. Moreover, the appellant does not provide further information to substantiate the suggestion that little weight should be attached to the given figure, other than that it is within a plan currently under examination. In any case, whilst CLPP Policy LP2 states that Sleaford will be the focus for substantial housing development and that windfall sites in appropriate locations will be considered favourably, the Council does not consider Lakeview to be an appropriate location. On the basis of the evidence before me, I see no reason to disagree with that conclusion.
30. The appellant argues that the permission granted in 2002 for the original caravan site indicates that the site has strong sustainability credentials and also notes that the original permission does not specify whether the site should be used for holiday or residential use. However, the imposition of a condition

¹⁶ They are contained within the report submitted to the Inspector as part of the emerging CLPP

restricting year-round occupation¹⁷ clearly indicates that the permission was granted for holiday use only. Furthermore, the original application was approved on the basis that it would meet the Council's objective of attracting tourists to the area, and make a significant contribution to the visitor economy. The development appraisal provided by the applicant¹⁸ states that the development would fulfil a number of objectives relating to leisure and tourism in the county. In any case, notwithstanding the extant permission, the appeal before me is required to be determined in the context of current planning policy.

31. It is also argued by the appellant that the development would make a net contribution to Council Tax revenue, which would benefit the local economy. However, the Council's Economic Development Team notes that the visitor economy is a key priority for the Council, and that the benefits to the local economy from permanent accommodation would be unlikely to exceed those of holiday accommodation. As there is no further evidence to support the appellant's view, I see no reason to disagree with the Council.
32. The appellant notes that some 330 caravans could be sited on the appeal site but given that quality of environment is likely to be a key element in attracting holiday demand on an inland site, I am not entirely convinced that this option is a realistic alternative. Consequently, I give this argument limited weight. I appreciate that there would be more opportunities for enhancement of the site, were the appeal to be allowed, but such enhancements would not outweigh the harm identified above.
33. The statement of case asserts that the reasoning for Condition 4 refers to traditional build housing when it refers to permanent dwellings. However, it is clear that the Council is seeking to prevent the use of the caravans as an occupier's sole or main residence and is unrelated to the construction of that residence.
34. The appellant's statement of case also notes that were the appeal to be allowed, there would be no need to enforce the residency restrictions. These require the owner/operators of the development to maintain an up-to-date register of future occupiers. Whilst I recognise that this would perhaps be onerous for the owner/operator, it is a standard planning condition imposed to make the original application acceptable in planning terms. Nor does the argument that there is now a stronger business case for park living alter my conclusions, as the extant permission was granted on the basis of supporting the visitor economy.
35. I note that the highways authority has requested the imposition of a travel plan to outline measures to reduce dependency on the private car. However, I am not satisfied that a travel plan would be enforceable and in any case the appellant has not indicated how a travel plan would remedy the poor connectivity of the site. As such I give this little weight.
36. The bus timetable for the 37 service was provided during the appeal. Although Lincolnshire County Council's (LCC's) bus map shows this service running along Mareham Lane, the timetable indicates that to the east of the town centre it runs along Boston Road. This is to the north of the appeal site and separated

¹⁷ 02/1147/FUL, Condition 5

¹⁸ Robert Doughty, September 2002

from it by the railway line. Having visited villages some distance to the east and south of the appeal site, it returns to Sleaford from the south and west. There is nothing in the timetable to indicate the route passes the appeal site. In any case, there are only two buses a day, one leaving at 0835 hrs and another at 1200 hrs, and it runs only on weekdays. Consequently, the evidence does not demonstrate that the 37 bus would provide a regular or frequent service for the appeal site. The appellant argues that were the appeal to be allowed local bus operators would have an opportunity to increase the number of services on Mareham Lane. However there is no evidence to indicate how realistic a proposition this would be and as such I give the suggestion little weight.

37. LCC's bus guide also highlights the availability of Dial-A-Ride which is a door to door service for the disabled or socially isolated. It is available only on weekdays between 0830 hrs and 1730 hrs and requires pre-booking. Furthermore, in my experience the service is limited by the number of drivers available. Although of use to people with limited mobility, it is not a substitute for a regular and frequent public transport service for the able-bodied, and does not alter my reasoning with regard to the limited nature of local bus services.
38. I appreciate that the application was recommended for approval at the planning committee meeting of July 2015, but was withdrawn to address safety issues. The former recommendation was then overturned on the basis that a not dissimilar scheme at the The Wolds had been dismissed at appeal. Whilst I acknowledge that the Council had recognised benefits in their earlier consideration of the application, I am required to consider the appeal before me on its own merits.
39. The Council has referred to other paragraphs within the Framework in its decision notice, but I consider these to be of lesser relevance to my reasoning.

Conclusion

40. Whilst I appreciate that the removal of the condition would allow units of accommodation appropriate to an older age group to be provided in the Sleaford area, this does not outweigh the harm identified above in relation to lack of connectivity with Sleaford town centre. Furthermore, the evidence before me, insofar as the base data can be regarded as representative, indicates that the spread of traffic movement associated with the proposed mobile home park would differ from that of the extant permission.
41. Consequently, for these reasons I conclude that the disputed conditions are necessary and reasonable in the context of local and national policies for the siting of new development in sustainable locations. They are also relevant to planning and to the development previously permitted, enforceable, precise and reasonable in all other respects. A permission allowing the mobile homes to be occupied as a main residence is not justified as the development would not be in a sustainable location. As such, I conclude that the appeal should be dismissed.

Amanda Blicq

INSPECTOR