

Appeal Decisions

Hearing held on 24 January 2017

Site visit made on 24 January 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 15th February 2017

Appeal A Ref: APP/J0405/W/16/3158879

Grove Lock Marina, Leighton Road, Slapton, Buckinghamshire LU7 0QU

- 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 T Baldwin against the decision of Aylesbury Vale District Council.
 - The application Ref 16/00362/APP, dated 26 January 2016, was refused by notice dated 30 March 2016.
 - The development proposed is a rural workers dwelling.
-

Appeal B Ref: APP/J0405/W/16/3158880

Grove Lock Marina, Leighton Road, Slapton, Buckinghamshire LU7 0QU

- 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 T Baldwin against the decision of Aylesbury Vale District Council.
 - The application Ref 16/01988/APP, dated 26 January 2016, was refused by notice dated 21 July 2016.
 - The development proposed is siting of a caravan for a rural worker.
-

Decisions

1. Appeal A is dismissed and appeal B is dismissed.

Main Issues

2. From all I have read and heard, I find that the main issues in both appeals are (i) whether or not there is an essential need for accommodation for a rural worker, having particular regard to paragraph 55 of the National Planning Policy Framework (the Framework); and (ii) the effect on the character and appearance of the area.

Reasons

Background

3. The appeal site is part of the Grove Lock Marina and Caravan Park sited to the east of the Grand Union Canal. It is accessed from the B488. The site currently contains an office/marina facilities building, a caravan facilities building and a machinery store. There is also a car park on site.
 4. Appeal A comprises a single storey timber clad building with a tile pitched roof and would be located at the site's north-western end close to the entrance
-

gates. Appeal B comprises the siting of a caravan, in a similar location, as an alternative to a permanent building. The disputes between the parties are essentially the same for both appeal schemes.

5. The business has been operating under the appellant's ownership since around 2010 and he now seeks to provide permanent accommodation for a site manager. The objective of doing this is based on the proposition of providing good customer service in support of growing the business. The Council contends that the essential need for such accommodation has not been justified and that the proposal would harm the area's character and appearance.
6. The parties agree that, because the Council's policies for the supply of housing within the Aylesbury Vale District Local Plan Part I (2004) (the LP) are time expired they are out-of-date for the purposes of paragraph 49 of the National Planning Policy Framework (the Framework). At the hearing, the parties agreed that paragraph 14 the Framework is therefore engaged and that the proposal falls to be judged against Framework paragraph 55. Based on the evidence put to me, I have no reason to disagree.

Appeals A and B

Whether or not there is an essential need for accommodation

7. Framework paragraph 55 sets out the government's objective for the location of rural housing. It says that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. One of these is the essential need for a rural worker to live permanently at or near their place of work in the countryside. It is against this criterion that the appellant seeks to justify the appeal schemes.
8. It was clear from the discussion at the hearing, that the importance of customer service to the appellant's business forms the overriding principle for the applications. In total, 83 units, be they boats or caravans can be accommodated on the site, which is a substantial number. Moreover, the occupancy evidence, indicates that purely in terms of boat users, there are around 8539 people per annum arriving on site and that this takes place during every month of the year. Even during December, around 632 people are logged as arriving on site by boat. Adding the per annum figure to that associated with caravan and camping arrivals, the average number of people arriving on site in a month is around the very substantial 3000 mark.
9. The Council argues that a number of boat owners are living on the site on a permanent basis. Thus they are not 'tourists' and I have no reason to doubt that, as the Council put to me, boaters are independent people such that their overnight needs do not need to be met by having a permanent managerial presence on the site. However, I acknowledge that the appellant discourages permanent boat residents and that people using the site have to prove they have a home address. I also accept that the recorded numbers of visitors is an audited figure.
10. Notwithstanding this, given the availability of moorings along the canal and the general self-sufficiency engendered by the nature of canal boating, I see no clear reason why boaters arriving outside of working hours would not be content to moor up and await access to the marina and its facilities the next

morning. Although it was suggested that these moorings are often is use by those not using the marina, at the time of my site visit, I observed only one boat moored along the canal. Whilst it is reasonable to conclude that there would be more boats during the warmer months, I cannot be certain that canal moorings would be at such a premium or that a berth in the marina would not be available upon arrival, that boaters would have nowhere to stop overnight. Further, I am not persuaded on the evidence before me that the number of boats arriving out of hours would: a) be high; and b) that there would be a demand for services that could not wait until the caretaker was on site the next day.

11. The appellant argues that many people arriving with caravans do so outside office hours including late into the evening. Whilst this may be the case, and from a customer service point of view, someone to meet and greet them would be desirable, that is entirely different from this being an essential activity. I see no reason why detailed information relating to the layout of the site and the location of visitors' pitches could not be provided before their arrival such that when they do arrive, they are clear where their pitch is. Moreover, I am not persuaded that they would necessarily expect to be met upon arrival late into the evening.
12. It was put to me at the hearing, that providing the level of customer service envisaged encompasses dealing with security-related matters and that would-be criminals wanting to access the site could tail gate genuine visitors to get through the gates. However, whilst this might be theoretically possible, I am not convinced that this would be borne out in reality or that it would happen frequently given that potential criminals would have to wait somewhere in the hope of seeing someone entering the site, with little idea of when this might be. There is nowhere to stop easily along the B488 and a parked car near to the site entrance would be likely to arouse suspicion. Further, there is no convincing evidence to demonstrate that there is any significant likelihood of regular opportunistic attempts to access the site by those who happen to be passing the site at the same time as a genuine visitor.
13. I recognise that there are sometimes issues related to unauthorised access onto the site from boaters mooring along the canal towpath even though the actual navigation is located outside the appellant's ownership. Whilst there is no obligation for the appellant to deal with such matters, I have no doubt that given the physical relationship between the canal and the marina berths, it is in his business interests to do so. At my site visit I observed the difficulty in preventing access to the site from the towpath and indeed from the busy Public House next door, and accept that there is no suitable mechanism to control this due to the restrictions related to the navigation. Nevertheless, whilst it was put to me that there are a number of security risks to the site, there is little evidence of actual regular incidents.
14. The appellant's Security Review¹ sets out a range of ideas for improving security and overall health and safety. As comprehensive as the document is, it primarily relates to reducing risk and does not provide strong evidence that such risks have led to actual incidences of such a level or frequency that it would be essential for a member of staff to be on site at all times. The Security Review refers to the use of CCTV and whilst I accept that its use does

¹ Security Review by Robert Angell, December 2016

not necessarily prevent crime and nor can it deal with its immediate effects, it nonetheless provides a means of discouraging it and is a useful tool in contributing to the overall perception of security. Therefore, although the use of CCTV may not provide the same level of security that would result from someone being on site at all times, based on the evidence, the likelihood of criminal activity is not significant enough in itself to warrant the provision of a permanent live-in staff member.

15. I acknowledge that there may be issues related to vandalism that result in the nearby lock being drained and whilst this comes under the aegis of the Canal and River Trust, such an act would clearly have a direct effect on the boats in the marina. However, whilst such acts can be very disrupting, I am not persuaded this happens so regularly that it would necessitate a manager being on site at all times or even that such a person could necessarily prevent it happening in the first place.
16. The Council has provided me with a previous appeal decision² relating to a site near Oswestry. Although the scale of that site is very different to the much larger one in the current appeal and it does not appear to have a comparative visitor pattern or offer an equivalent level of services, the Inspector does address the matter of the use of CCTV and lighting to deter criminal behaviour. In this respect, there is some comparison to be drawn between the Oswestry scheme and the one before me. Accordingly, I agree that the use of such site security measures, would provide a useful deterrent to criminal activity.
17. Turning to matters of health and safety, I acknowledge that the storage of gas and other fuel on the site might present a risk. However, from the evidence put to me, the actual number of incidents has been relatively infrequent. Nonetheless, the appellant argues that there remains a risk that should an incident occur outside working hours, there would be no-one on site to deal with it quickly. I accept this, but consider that security measures could be put in place to prevent access to flammables after the caretaker had left site. Similarly, in terms of electrics and water, it would be reasonable to conclude that issues would be unlikely to occur late into the night because visitors' general activity would mostly have ceased. Thus, any need for action to be taken by a site manager would be unlikely to be necessary during a substantial period of the night. In any case, an emergency at night would be more likely to prompt the calling of the emergency services who would be best equipped to deal with it.
18. The Appellant has identified that the area of growth lies in the use of the site by campers and those arriving with caravans, particularly during the shoulder months. Given the large number of boats present at the time of my site visit, I have no reason to doubt this assertion and no substantive evidence has been put to me to contradict it.
19. Attached to this, the appellant has put forward the case that the support for tourism in Framework paragraph 28 weighs in favour of the appeal schemes. However, whilst I recognise the government's objectives in this regard, such support does not necessarily translate into there being an essential need for a permanent dwelling on the site. Furthermore, whilst I accept that there has been some recent levelling out in the growth of the business, given the evidenced occupancy rates, the existing service received by customers has not

² APP/L3245/W/15/3006013

been a barrier to the growth of the business to date and I see no reason why further visitors would be deterred simply because of the absence of a permanent on-site manager.

20. The appellant has provided me with a favourable appeal decision relating to Wagtail Country Park in Lincolnshire. I accept that in terms of the issues highlighted by the Inspector, there are some similarities with those at the Grove Lock site. Nevertheless, the Inspector in that case was dealing with a significantly greater number of people camping and with caravans in addition to the 10 lodges on the site. In contrast, the Grove Lock facility caters mainly for boaters and whilst the number of caravans and campers could increase, it would not reach the same level as the Wagtail site. I have already taken the view that the general self-sufficiency of boaters does not necessitate a permanent on-site presence. Therefore, the needs of the two sites do not provide a straightforward comparison notwithstanding that each application and appeal must be considered on its own merits.
21. I was informed at the hearing that the site is the most expensive marina outside London because of its high quality. I recognise the desire for a manager to be on-site at all times in terms of providing the envisaged level of customer service. I also acknowledge that the current caretaker lives in Luton, which is a substantial distance away and that this makes it difficult to respond to issues after working hours.
22. However, based on the written and oral evidence, I am not convinced that the issues raised by the appellant are of such magnitude so as to result in effects that would materially affect the functioning of the enterprise without either of the appeal schemes going ahead. Accordingly, I find that the essential need for accommodation for a rural worker has not been justified and the proposal therefore runs counter to Framework paragraph 55.

Character and appearance

23. Although the Council's policies relevant to the supply of housing are time expired, this does not mean that the development plan as a whole is out-of-date and thus, those policies that are not relevant to the supply of housing can be given weight according to their degree of consistency with the Framework.
24. Although not included in the putative reasons for refusal of the applications, the Council has put to me that LP Policy GP35, which relates to the design of new development and LP Policy GP73 that is of specific relevance to camping and touring caravan sites are relevant to the appeal. Whilst the appellant does not dispute this, it was apparent at the hearing that there is a clear lack of consensus between the parties in respect of the weight that should be given to these policies.
25. The *Suffolk Coastal* judgement³ indicates that 'relevant policies for the supply of housing' should be given a 'wide' interpretation. However, I have had regard to the extract from the Inspector's decision⁴ relating to Land at Valley Farm, Soulbury that was provided at the hearing. I have no basis for disagreeing with that Inspector in concluding that LP Policy GP35 does not constitute a relevant policy for the supply of housing. Therefore, in this regard, the development plan is not absent or silent or out of date and I consider LP

³ Suffolk Coastal District Council v Hopkins Homes Ltd [2016] EWCA Civ 168

⁴ Ref APP/J0405/W/16/3146817

Policy GP35 to be consistent with the Framework requirement for good design. LP Policy GP73 sets out a series of requirements relevant to the provision of camping and touring caravan sites and based on the terms therein, I do not consider it to be a housing supply policy. Accordingly, both of these development plan policies are directly relevant to the appeal proposal and attract full weight.

26. In both appeal schemes, the accommodation would sit on higher land close to the road. The proposed dwelling would be of a single storey, generally matching the appearance of the existing buildings on the site. In this respect, it would generally harmonise with its immediate surroundings. From around the site entrance and close by along the B488, although visible, the building would be experienced in the context of the other buildings, parked caravans and motorhomes. Moreover, the Laurel hedge and trees planted around the site access would eventually substantially, if not completely, screen the building from view. Whilst the proposal would therefore result in increasing the spread of buildings across the site and specifically further to the west, the overall effects of the proposed dwelling on the character and appearance of the area would be acceptable.
27. The caravan would also be a substantial structure given that it would need to be large enough to provide permanent living accommodation. However, although it would be more noticeable by way of its appearance in comparison to the dwelling, it would be experienced in the context of the camping and caravan site and would benefit from the screening by the surrounding vegetation that I have already referred to.
28. Both the dwelling and caravan would potentially be visible from the lane that runs off the B488 to the south but only through breaks in the hedgerow and would therefore go largely unnoticed by those travelling along the lane.
29. Accordingly, the proposals forming both appeal A and appeal B would not conflict with the objectives of LP Policies GP35 and GP73.

Planning Balance and Conclusion

30. Whilst I have found that there would be no overall unacceptable effects on the area's character and appearance, I have found conflict between the appeal schemes and paragraph 55 of the Framework. In balancing this against the support for tourism elsewhere in the Framework and having taken account of all the matters raised by the appellant in his written evidence and orally at the hearing, I do not consider there to be a persuasive argument in favour of allowing either of the appeals.

Hayden Baugh-Jones

Inspector

APPEARANCES

FOR THE APPELLANT:

John Steel	Barrister, Essex Chambers
Matt Taylor	MBT Planning
Bob Hutton	Site operator
Tom Baldwin	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Bill Nicholson	Principal Planning Officer, Aylesbury Vale District Council
Jennie Harris	Aylesbury Vale District Council (observing)

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Artist Impression – View from entrance existing and proposed
- 2 Revised Site Location plan Drawing No. 235 10 Rev A
- 3 Extract from appeal decision ref APP/J0405/W/16/3146817