

Appeal Decision

Site visit made on 24 January 2017

by JP Sargent BA(Hons) MA MRTPI

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

Decision date: 02 March 2017

Appeal Ref: APP/R3325/W/16/3158315

Hedgerow Meadow, Street Road, Compton Dundon, Somerton TA11 6PY

- 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 Ms E Brown against the decision of South Somerset District Council.
 - The application Ref 16/01761/S73A, dated 20 April 2016, was refused by notice dated 29 July 2016.
 - The application sought planning permission for the change of use of land to 1 Traveller pitch and associated works comprising 1 mobile home; 1 touring caravan; 1 ISO container; 1 shed, 1 compost toilet and a polytunnel; use of shed and land for siting/storage of domestic items; access and associated hardstanding without complying with conditions 2, 3, 4, 6, 7, 8, 9 & 10 (the disputed conditions) attached to planning permission 13/04943/FUL dated 8 April 2014 (the original permission).
 - The disputed conditions and the reasons for their imposition are in Schedule 1 below.
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Decision

1. The appeal is allowed and planning permission is granted at Hedgerow Meadow, Street Road, Compton Dundon, Somerton TA11 6PY in accordance with the application Ref 16/01761/S73A, dated 20 April 2016 for the change of use of land to 1 Traveller pitch and associated work comprising 1 mobile home, 1 touring caravan, 1 ISO container; 1 shed, 1 compost toilet and a polytunnel; use of shed and land for siting/storage of domestic items; access and associated hardstanding without complying with conditions 2, 3, 4, 5, 6, 7, 8, 9 & 10 attached to planning permission 13/04943/FUL dated 8 April 2014 but subject to the new conditions listed in Schedule 2 and subject to the other conditions imposed on planning permission Ref 13/04943/FUL, also listed in Schedule 2, so far as the same are still subsisting and capable of taking effect.

Procedural matters

2. I received 2 copies of Drawing J327/02C, one of which was annotated. The parties confirmed that the application was considered on the basis of the non-annotated version and I have determined the appeal accordingly.
 3. For reasons stated below my decision also concerns non-compliance with Condition 5 of the original permission.
 4. What is now proposed would not accord precisely with the entirety of the description of development given above as the numbers of containers and caravans are to be increased. However these changes do not affect the fundamental element of the development, which is the change of use of land to
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1 Traveller pitch and associated works, while any variations to the description thereafter are relatively minor and would not, in themselves, require planning permission without the various conditions. Therefore, to my mind this matter is not a reason why the appeal cannot proceed.

5. An application for costs was made by Ms Brown against the Council and that is the subject of a separate decision.

Main Issues

6. The main issues in this case are the effect of the development on the character and appearance of the area and on the living conditions of adjacent residents.

Reasons

Character and appearance

7. This appeal concerns a long thin site that runs back from the road and is in the designated countryside on the edge of Compton Dundon. A bungalow in a large plot is to the south, and this has an extant permission for a 4 bed dwelling behind. Otherwise, the immediate environs comprise relatively flat fields separated by hedges and fences.
8. In 2014 planning permission was granted to use the site as a single gypsy and traveller pitch for occupation solely by Ms Brown and any spouse or dependents. A container to be used for business purposes was also accepted on the site, and a maximum of 2 caravans were to be present. The occupancy, the number of caravans and the location of any business activity in the container only were all controlled by various conditions. No day room was shown, and it was understood the second caravan would serve that purpose.
9. The principle elements of the proposal now before me are to allow 2 further caravans and an additional container onto the land. One of the caravans would be used for touring while the Appellant would restore the other as a hobby (as opposed to a business). The second container would be for business purposes. In addition the Appellant is also seeking permission to extend the area of hardstanding and to agree the landscaping and lighting details. Of these various elements, a touring caravan, the second container and the hardstanding were present when I visited and were broadly in the locations shown on Drawing No EB16-BLOCK Rev D.
10. Government guidance in *Planning Policy for Traveller Sites* (PPTS) says Councils should '*strictly limit*' gypsy and traveller development in the open countryside, limiting the parts of each site that can be used for business purposes. In the *South Somerset Local Plan 2006-2028* Policy EQ2 seeks to preserve the character and appearance of the District while Policy HG7, which specifically concerns gypsy and traveller development, states it must not '*have a significant adverse impact on the landscape character and visual amenity of the area*'. This policy context does not conflict to any appreciable degree with the *National Planning Policy Framework* (the Framework).
11. The Council said this countryside location had '*a high degree of sensitivity*' but the basis for that contention was not given. I accept that the caravans and the container would be further intrusions in the landscape. However, from the north they would be significantly screened by the boundary hedging and from the south the hedges to this site and adjacent fields would conceal them to a

certain extent. Looking from the road to the east the caravans and containers would be to the rear of the structures and similar now on the site, while from the public footpath to the west they would lie behind trees and planting along the boundary. The existing landscaping and layout would therefore do much to minimise the prominence of the additional elements. Moreover, this impact would be further reduced by the extra planting now proposed, the cladding of the container and (to a lesser extent) by the adjacent new dwelling.

12. From where the additional caravans and container could be seen, they would not be viewed in isolation but would be apparent in the context of the lawful activity on the site. I am also mindful that this permission would still require all materials and equipment brought onto the land in connection with the use to be removed when the Appellant ceased living there. Finally, a condition could limit the number of caravans being restored on the site at any one time in the interests of the appearance of the surroundings.
13. Turning to the activity associated with the extra caravans and the container, the occupation of the site would still be restricted to a single pitch occupied by the Appellant and any spouse or dependents. Indeed, the 2 extra caravans are not expected to be for residential use and in any event under a suggested condition from the Council only 3 of the caravans could be used for domestic occupation. Furthermore, additional business activity would be confined to within one extra relatively small container, and this would be in line with the requirement in the PPTS that the parts of such sites to be used for business should be strictly limited. Therefore, any activity generated would not be sufficient to cause harm to the character of the locality.
14. The Council has suggested Condition 8 be amended to restrict business activity to the containers and to the site of any touring caravan that is undergoing restoration. However, the Appellant has made clear the caravan restoration is not a business activity but a hobby and has not suggested that element be included within Condition 8. Therefore I do not propose to include it in that condition.
15. Taking all these factors together, I find that the 2 additional caravans and a container would not cause any material harm to the character or appearance of the area. However, the proposed cladding for the containers and their roofs should be agreed. This is because in my opinion the details in the Appellant's submissions on which the parties rely are not sufficiently precise to form a condition. Therefore the wording for Condition 9 should remain broadly as on the original planning permission, although should take account of the second container now being present.
16. Turning to the other aspects of the application, when compared to the previously approved scheme the hardstanding has been extended towards the mobile home. I see no reason why this should necessarily cause harm to the appearance of the area. However, it is reasonable to seek to ensure the extent of the hardstanding is limited, and to my mind this is better achieved through the negatively worded version of Condition 6 suggested by the Council rather than the wording put forward by the Appellant.
17. With regard to the landscaping details, the Appellant is now seeking this matter to be agreed by condition, and so Condition 7 should be amended accordingly.

18. Finally, based on the details provided the lighting scheme would not be unduly intrusive or unreasonable for this development. Although I can see merit in a more flexible wording to allow alternative schemes to come forward at a later date as circumstances require, that in itself is not a justification for the revised wording offered by the Council.
19. Accordingly, I conclude the development would not detract unacceptably from the character and appearance of the area, and so would not conflict with Local Plan Policies EQ2 or HG7, the PPTS or the Framework.

Living conditions

20. The Framework identifies as a core planning principle the need to seek a good standard of amenity for all existing residents and future occupiers.
21. The Council described the development as '*unneighbourly*' by reason of its impact on the living conditions at the existing and proposed dwellings to the south. However, a significant distance would remain between the appeal site and the closer of those 2 dwellings. Moreover, as those who could live on the site would not be increasing and as the commercial activity would be confined to the 2 containers I see no reason why the proposal should give rise to additional unacceptable noise or disturbance.
22. Accordingly I conclude the development would not detract unreasonably from the living conditions of adjacent residents and so would not conflict with Local Plan Policy EQ2, which among other things seeks to protect residential amenity of adjacent dwellings, or the Framework.

Other matters

23. There was a concern about the Appellant's compliance with the terms of the original permission and, by extension, her compliance with the conditions on any subsequent permission that may be granted. However, non-compliance with any conditions imposed cannot be assumed and is not a matter to which I can attach weight. Rather, the enforcement of conditions lies with the Council.
24. I have no grounds to consider that what is before me would have an unacceptable effect on drainage or wildlife.

Condition 5

25. The Appellant did not seek planning permission in non-compliance with Condition 5 of the original permission, which says

At the proposed access there shall be no obstruction to visibility greater than 300mm above adjoining road level within the visibility splay shown on the submitted plan (to the south west of the access) – Drawing No J327/02 Rev B. Such visibility splay shall be constructed and cleared within 3 months of the grant of this permission and shall thereafter be maintained at all times.

However, Drawing No J327/02 Rev B is now to be superseded by Drawing No J327/02 Rev C. Both drawings though are the same in relation to the sight splays, with their difference being in relation to the layout in the site. I therefore consider no injustice would occur if this condition was changed to incorporate the revised plan.

Conditions

26. Accordingly in the light of the above I find that Condition 2 should refer to 4 caravans, Conditions 8 and 9 should refer to 2 containers (though the reference to maintenance in Condition 9 is imprecise and should be omitted), and Conditions 4 and 10 should refer to Drawing EB16-BLOCK Rev D and not the drawings it supersedes. Similarly Drawing J327/02 Rev C should be cited in Conditions 5 and 10. Condition 9 should still require the agreement of details as I am not satisfied sufficient information has as yet been forthcoming.
27. With regard to the other disputed conditions, Condition 3 should require only the lighting scheme indicated while Condition 6 should prevent hardsurfacing other than in the places shown, though opportunity for agreeing slight variation with the Local Planning Authority would be appropriate. Finally, the landscaping (Condition 7) should be agreed reflecting the wording suggested by the Appellant.
28. I also find that 2 further conditions should be imposed in line with Conditions 13 and 14 suggested by the Council, to limit the number of caravans being restored and being occupied. However, the Council has also suggested Condition 12 be redrafted, presumably to allow for details that have been agreed since the original permission was granted. That though is not a disputed condition and is not otherwise affected by the disputed conditions, and so I do not propose to make that change.

Conclusions

29. For the reasons stated I conclude that the appeal should be allowed.

J P Sargent

INSPECTOR

Schedule 1:

- 2) There shall be no more than 1 pitch on the site, and no more than 2 caravans, as defined in the Caravan in the *Caravan Sites and Control of Development Act 1960* and the *Caravan Sites Act 1968* as amended, shall be stationed at any one time, of which only one caravan shall be a static caravan

Reason: In the interests of sustainable development and to accord with the NPPF and Policy HG11 of the *South Somerset Local Plan, 2006*

- 3) No external lighting shall be installed or erected on the site unless as part of a scheme, details of which have been submitted to and approved in writing by the Local Planning Authority. The scheme of lighting should seek to minimise external lighting and avoid spotlights particularly any visible from the public highway. Once approved such lighting shall only be erected and used in accordance with such scheme unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the character of the area and in the interests of preventing light pollution in accordance with Policies EH1, ST6 and EP3 in the *South Somerset Local Plan, 2006*

- 4) The parking and turning areas shown on the submitted site layout plan ref J327/08 shall be kept clear and used only for the parking and turning of motor vehicles.

Reason: In the interests of highway safety and to ensure that vehicles leave the site in forward gear, in accordance with the aims of Policy ST5 of the *South Somerset Local Plan, 2006*

- 6) Within 3 months of the date of this permission details of all hard surfaces and hardstanding, including hardstanding to be established under vehicles used for residential accommodation, shall be submitted to and approved in writing by the Local Planning Authority. Such details, once approved, shall be fully implemented within 6 months of being approved, and thereafter retained and maintained.

Reason: To safeguard the amenity of the area and to accord with Policy HG11 of the *South Somerset Local Plan, 2006*

- 7) During the first planting season following the grant of this permission the agreed scheme of landscape mitigation planting received by email on 28 February 2014, shall be fully implemented. All planting, seeding, turfing or earth mounding comprised in the approved details of landscaping shall be carried out and any trees or plants which within a period of 5 years from the completion of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To safeguard the character and appearance of the area and to accord with the NPPF and Policies ST6, EC3 and HG11 of the *South Somerset Local Plan, 2006*.

- 8) No part of the site other than the storage container hereby approved shall be used for business purposes or commercial storage of any kind.

Reason: To safeguard the character and appearance of the area and to accord with the NPPF and Policies ST6 and HG11 of the *South Somerset Local Plan, 2006*.

- 9) Prior to the placement of a storage container on the site, details of the design and materials of the cladding and roof to be applied to the container shall be submitted to and approved in writing by the Local Planning Authority. Such details, once approved, shall be fully implemented and thereafter retained and maintained.

Reason: To safeguard the character and appearance of the area and to accord with the NPPF and Policies ST6 and HG11 of the *South Somerset Local Plan, 2006*.

- 10) The development hereby permitted shall be carried out in accordance with the following approved plans: the drawings ref J327/01, J327/02 Rev B, J327/04, J327/05, J32706 and J327/08.

Reason: For the avoidance of doubt and in the interests of proper planning.

Schedule 2:

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of *Planning policy for traveller sites* (August 2015).
- 2) There shall be no more than 1 pitch on the site, and no more than 4 caravans, as defined in the *Caravan Sites and Control of Development Act 1960* as amended and the *Caravan Sites Act 1968* as amended, shall be stationed on the land at any one time, of which only 1 caravan shall be a static caravan.
- 3) External lighting shall only be erected and used in accordance with the approved scheme as set out in Drawing No EB16-BLOCK Rev D and specified in the submitted details.
- 4) The parking and turning areas shown on the submitted site layout Drawing No EB16-BLOCK Rev D shall be kept clear and used only for the parking and turning of motor vehicles.
- 5) At the proposed access there shall be no obstruction to visibility greater than 300mm above adjoining road level within the visibility splay shown on the submitted plan (to the south west of the access) – Drawing No J327/02 Rev C. Such visibility splay shall be constructed and cleared within 3 months of the grant of this permission and shall thereafter be maintained at all times.
- 6) No hard surfaces and hardstanding, including hardstanding to be established under vehicles to be used for residential accommodation, shall be created on the site except in accordance with the submitted Drawing No EB16-BLOCK Rev D unless otherwise agreed in writing by the Local Planning Authority.
- 7) Within 3 months of the grant of this permission there shall be submitted to the Local Planning Authority a scheme of landscaping, which, once approved, shall be implemented within the first planting and seeding season following the approval of the scheme. Any trees or plants which within a period of 5 years from the completion of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 8) No part of the site other than the 2 storage containers hereby approved shall be used for business purposes or commercial storage of any kind.
- 9) Within 3 months of the date of this permission, details of the design and materials of the cladding and roof to be applied to the 2 containers shall be submitted to and approved in writing by the Local Planning Authority, together with a timetable for their implementation. Such details, once approved, shall be fully implemented in accordance with the approved timetable and thereafter retained.
- 10) The development hereby permitted shall be carried out in accordance with the following approved drawings ref J327/01, J327/02 Rev C, J327 04., J327 05, J327 06. and EB16-BLOCK Rev D.
- 11) The use hereby permitted shall be carried on only by the applicant Ms E Brown, together with any spouse or dependents. When the premises cease to be occupied by Ms E Brown, the use hereby permitted

shall cease and all materials and equipment brought onto the premises in connection with the use shall be removed.

- 12) No electrical power generation equipment or machinery shall be operated or installed on the site unless full details of the equipment and its housing and siting have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the technical specifications of the equipment and sound power levels. Once approved the details shall be fully implemented and thereafter retained and maintained as long as the equipment is operated on the site.
- 13) No more than one touring caravan on site at any one time shall be retained on site for the purposes of restoration and re-sale by Ms E Brown, and no other buying, selling or dealing in caravans or the storage of any materials or parts in connection with such activities shall take place on or from the site.
- 14) No more than 3 caravans on the site shall be used at any time for domestic occupation by Ms E Brown together with any spouse or dependents.