
Appeal Decision

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 3rd March 2017

Appeal Ref: APP/H2733/W/16/3160533

Muston Grange Caravan Park, Muston Road, Filey YO14 0HU

Easting 511239 Northing 479716

- 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 Mr George Dale (Bell Elliot Leisure Ltd) against the decision of Scarborough Borough Council.
 - The application Ref 16/01276/FLA, dated 21 June 2016, was refused by notice dated 16 August 2016.
 - The application sought planning permission for 'Demolition of buildings and change of use of the site to accommodate 2 static caravans' without complying with a condition attached to planning permission Ref 14/02084/FL, dated 29 March 2016.
 - The condition in dispute is No 4 which states that: The occupation of the static caravans on this site shall be limited to the period 1 March to 31 October in any year.
 - The reason given for the condition is: To prevent the use of the use of this site as a residential caravan site, in accordance with Policies E1, E2 and L6 of the Scarborough Borough Local Plan.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of buildings and change of use of the site to accommodate 20 static caravans at Muston Grange Caravan Park, Muston Road, Filey YO14 0HU, Easting 511239 Northing 479716 in accordance with the application Ref 16/01276/FLA dated 21 June 2016 subject to the conditions set out in the Schedule to this decision without compliance with the conditions previously imposed on the planning permission Ref 14/02084/FL dated 29 March 2016.

Procedural Matter

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form and which refers to change of use of the site to accommodate 2 static caravans, it is clear from the evidence before me that the appeal proposal relates to change of use of the site to accommodate 20 static caravans. The Council's decision notice in respect of planning permission Ref 14/02084/FL dated 29 March 2016 refers to 20 static caravans, as does the decision notice in respect of the appeal proposal (application Ref 16/01276/FLA dated 21 June 2016), and I note that the appellant has used this description on the appeal form. I have therefore considered the appeal on that basis as neither of the parties would be prejudiced or caused any injustice by me taking this course of action.
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Application for Costs

3. An application for costs made by Mr George Dale (Bell Elliot Leisure Ltd) against Scarborough Borough Council is the subject of a separate Decision.

Background and Main Issue

4. In granting planning permission Ref 14/02084/FL for 20 static caravans at the appeal site, the Council afforded significant weight to the local economic benefits associated with the transient holiday occupation of the caravans.
5. Among the conditions attached to that planning permission was the disputed seasonal occupancy condition, the intention of which was to prevent permanent residential occupancy of the caravans in order to ensure the tourism benefits of the development were realised.
6. There is agreement between the parties that there is a need to ensure the caravans are not occupied on a permanent basis. The appellant wishes to vary the seasonal occupancy condition to a holiday occupancy condition, with the proposed wording set out on the application form as follows:

“This permission relates to the provision of year round holiday accommodation (I) the caravans shall be occupied for holiday purposes only (II) The caravans shall not be occupied as a person's sole or main place of residence (III) the owners shall maintain an up to date register of the names of owners/occupiers of individual caravans on the site and of their main home addresses and shall made [sic] this information available at all reasonable times to the Local Planning Authority.”
7. The main issue is therefore whether the imposition of a holiday occupancy condition in place of the disputed seasonal occupancy condition would prevent permanent residential occupancy of the caravans.

Reasons

8. I have considered the wording of the proposed holiday occupancy condition against the 6 tests set out in paragraph 206 of the National Planning Policy Framework (the Framework) and the guidance set out in Planning Practice Guidance (the PPG).¹
9. As set out above, it is common ground that there is a need to prevent the permanent residential occupancy of the caravans in order to make the development acceptable in planning terms. The proposed holiday occupancy condition would relate to planning objectives and would fairly and reasonably relate to the development to be permitted. The wording of the proposed holiday occupancy condition is precise and is written in a way that makes it clear to the appellant and others what must be done to comply with it.
10. I note the Council's concerns regarding the monitoring and enforcement of the proposed condition. However, whilst static caravans may be a fairly inexpensive form of accommodation, I have not been provided with any evidence to demonstrate that this necessarily results in unauthorised full time residential occupation. Nor do I have any evidence to demonstrate in what way the nature and physical character of static caravans result in a particular difficulty in terms of monitoring compliance. Although a requirement for a

¹ Paragraphs 003 Reference ID: 21a-003-20140306 and 004 Reference ID: 21a-004-20140306.

period of vacancy during the year may make unauthorised occurrences of permanent residential occupation more readily apparent, I have not been provided with evidence to demonstrate that it would not be practically possible to enforce the proposed holiday occupancy condition. Whilst the Council raises concerns regarding the potential for falsification of records, it would be open to the Council to seek information through appropriate enforcement proceedings.

11. The proposed condition is reasonable in all other respects and would not place unjustifiable or disproportionate burdens on the appellant.
12. I note that year round holiday use is permitted at Cayton Bay Holiday Caravan Park, although I have not been provided with details of the precise wording of any holiday occupancy condition in respect of that site or of any breaches of the relevant condition. However, any breach of a holiday occupancy condition which may have occurred at the Cayton Bay site does not in itself indicate that such a condition is incapable of preventing permanent residential occupancy. Furthermore, the apparent differences between the Cayton Bay site and the appeal site in terms of on-site facilities are not in themselves an indicator of the enforceability of the condition. Accordingly, I have given these matters little weight.
13. The Department for Communities and Local Government Good Practice Guide on Planning for Tourism was withdrawn on 7 March 2014, and I have therefore not had regard to it.
14. Overall, a holiday occupancy condition such as that proposed would be sufficient to ensure that the caravans were not occupied on a permanent basis. This would secure the economic benefits of the transient holiday occupation of the caravans, which is the Council's key objective in this case. Other limitations on the occupancy of the caravans such as those set out in the disputed condition are therefore not necessary.
15. For the reasons set out above, I therefore conclude that the proposed imposition of a holiday occupancy condition in place of the disputed seasonal occupancy condition would prevent permanent residential occupancy of the caravans. As such, the appeal proposal would accord with the countryside protection and tourism aims of Policies E1, L1 and L6 of the Scarborough Borough Local Plan, TOU 1 and TOU 4 of the emerging Scarborough Borough Local Plan and Part 3 of the Framework.

Conditions

16. In allowing the appeal and granting planning permission I have deleted the disputed seasonal occupancy condition and replaced it with a condition relating to holiday occupancy of the caravans in order to secure the economic benefits of transient holiday occupation.
17. The guidance in the Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on planning permission Ref 14/02084/FL I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

18. I have imposed a condition specifying the relevant drawing as this provides certainty. In order to ensure the suitable appearance of the development, I have imposed conditions relating to landscaping. I have imposed a condition relating to surface water drainage to ensure the site is suitably drained.
19. It is clearly expressed in the description of development that the appeal proposal relates to the change of use of the site to accommodate 20 static caravans. Therefore, although not suggested by the parties, in the interests of certainty and in order to define the precise nature of the use I have imposed a condition limiting the number of static caravans on the site.

Conclusion

20. For the reasons set out above and having had regard to all other matters raised, I conclude that the appeal should be allowed.

C L Humphrey

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall begin not later than 28 March 2019.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: S0151312-02 dated October 2014.
- 3) No more than 20 caravans shall be stationed on the site at any time.
- 4) The caravans hereby permitted 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/occupiers of individual caravans on the site and of their main home addresses and shall at all reasonable times make this information available to the local planning authority.
- 5) No part of the development hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The submitted details of surface water drainage works shall:
 - i) specify a system which is compliant with the parameters submitted to the Council on 12 January 2015;
 - ii) include a timetable for its implementation; and
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage works shall thereafter be managed and maintained in accordance with the approved details.

- 6) No part of the development hereby permitted shall be occupied until a full specification of all proposed tree planting has been submitted to and approved in writing by the local planning authority. The specification shall include the quantity, size, species and positions or density of all trees to be planted, how they will be planted and protected and the proposed time of planting. The tree planting shall be carried out in accordance with the approved specification. If, within a period of 5 years from the date of planting, any tree so planted (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.
- 7) The existing hedges on the north, west, east and south boundaries of the site shall be retained and no part of the retained hedges shall be cut down, uprooted, destroyed or pruned below a height of 1.5 metres without the prior written consent of the local planning authority.