
Appeal Decision

Site visit made on 28 February 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 28 March 2017

Appeal Ref: APP/R3325/W/16/3164706

Hill Farm, Wood Drove, Huish Episcopi, Langport TA10 0DD

- 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 Terry Mounter against the decision of South Somerset District Council.
 - The application Ref 16/01965/COU, dated 5 May 2016, was refused by notice dated 11 August 2016.
 - The development proposed is described as "application for full planning permission to re-locate 3 No static caravans".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Plans were submitted with the appeal showing 2 different locations for the proposed static caravans. It has been clarified that the Council when making its decision considered the location plan and site plan both dated April 2016. I will consider those plans. The other set of plans relate to a previous proposal.

Main Issue

3. The main issue is the effect of the development upon living conditions within the nearby area due to the proximity of the site to the adjoining commercial kennels.

Reasons

4. The appeal site is located within a rural area. The proposal would involve the change of use of a parcel of land for the siting of 3 static caravans close to the rural lane known as Wood Drove. Adjoining the site to the south-east is a commercial kennels. There are some dwellings in the area including Hill Farm nearby to the south-west and Videns on the eastern side of the kennels. There is also a caravan and camping site further along Wood Drove.
 5. The adjoining kennels includes a large dog exercise area which extends up to the boundary with the appeal site. Further to the south-east, beyond the exercise area, the main kennel buildings are enclosed by fencing.
 6. The boundary between the appeal site and the adjoining dog exercise area is defined by a mix of landscaping including large trees, some metal site fencing as well as post and rail fencing. It is possible to see between the site and the
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exercise area. The sound from the kennels and exercise area are not contained by the existing boundary treatment. I could hear the barking of the dogs within the kennels from the site in what is an otherwise quiet rural area. I saw some dogs being exercised accompanied by handlers who were calling out commands to the dogs.

7. The operator of the kennel confirms that the total number of dogs can be as many as 55. I do not know how many were present at the time of my visit. The level of noise from the dogs that I experienced was at a level raised significantly above the background sounds from the otherwise tranquil rural area. The submissions by the Council about existing complaints due to noise from dogs are not very detailed. However I can understand that the noise from the kennels could become irritating and why it may have led to some complaints. This existing noise could therefore potentially disturb occupiers of the proposed caravans on the site.
8. The presence of caravans in close proximity to the kennels could also disturb the dogs. As well as being seen by dogs in the exercise area, further activity within the site by occupants of the caravans may also be heard by dogs within the kennel buildings. The occupiers of the proposed caravans would be likely to use the external area around the proposed caravans for sitting out, for children to play on and they would also drive into the site causing additional noise from vehicles. Such activity within the site would be in contrast with the low key use of the land at the moment. The noise from dogs barking could increase as a result of the proposal and this could lead to disturbance for the prospective occupiers of the caravans. Furthermore, the use could lead to increased noise within the wider area therefore increasing the chances of existing nearby residents being disturbed.
9. Although the appellant says that the potential for noise from the nearby dogs would not be a problem for him, it is necessary to consider the general situation as it would not be reasonable to limit a planning permission only for his personal use. Although the appellant may only intend to use the caravans 4 times a year, the holiday condition suggested by the Council would not prevent more regular use. Even people staying for short periods on holiday could be disturbed by the noise from the kennels which would adversely impact upon their living conditions.
10. I have considered whether a planning condition could be imposed to prevent the positioning of the caravans until details of mitigating measures to reduce the effects of noise are implemented. A bund has been suggested but I have no expert evidence to explain whether such measures could overcome my concerns. Furthermore, without having any evidence about the size or construction requirements of noise mitigation measures, it is not possible to know if they would be acceptable in other respects such as the impact upon the character and appearance of the area.
11. The occupants of the proposed caravans could therefore experience noise from the adjoining kennel and could also cause additional disturbance of the dogs within the kennels leading to additional impacts upon other nearby occupiers. In relation to the main issue, the proposal would have a harmful impact upon living conditions within the nearby area.
12. Although the appellant has questioned the policies that have been referred to by the Council, they are relevant to this main issue. The South Somerset Local

Plan¹ (LP) Policy EQ2, amongst other things, requires development proposals to protect the residential amenity of neighbouring properties. LP Policy EQ7 relating to pollution control, includes a requirement that development resulting in noise will only be permitted if the potential adverse effects would be mitigated to an acceptable degree. These policies would not be complied with. Furthermore, the proposal would not comply with the National Planning Policy Framework at paragraph 17 which requires a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

13. The proposal could be the cause of some operational difficulties for the owners of the kennels. However I have no evidence that this would affect the viability of that business as suggested within the reason for refusal.
14. The appellant has referred to the improvement that would result from the change in location of the caravans in terms of the reduced impacts upon the surrounding landscape. The Council also agree that the proposed relocation is acceptable in these terms. The suggested mechanism for preventing the use of both sites is through a planning obligation. However, a planning obligation has not been submitted and I cannot consider that further. The possible benefits of the proposal cannot be secured.
15. The appellant has a disabled daughter and the intention is to use the caravans for her holidays and for holidays of other pupils from her school. From the information provided to me, it would not be reasonable to attempt any limitation of the occupancy to those people. The likely impacts from the proposal would occur regardless of who occupies the caravans. Furthermore, the personal circumstances do not have much weight as they may change over time whereas a planning permission would be potentially permanent.
16. Correspondence through e-mails between the appellant and the Council made it clear that the appellant was agreeable to extend the time for the Council to deal with the planning application. However this does not affect the merits of the case before me.

Conclusion

17. The other matters do not outweigh my concerns in relation to the main issue. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Andy Harwood

INSPECTOR

¹ South Somerset Local Plan (2006-2028), adopted March 2015