
Appeal Decision

Site visit made on 13 July 2016

by M Seaton BSc (Hons) Dip TP MRTPI

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

Decision date: 07 April 2017

Appeal Ref: APP/Y2003/W/16/3146133

Newlands Lane, Epworth, North Lincolnshire, DN9 1AA

- 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 a condition subject to which a previous planning permission was granted.
 - The appeal is made by Miss L Page against the decision of North Lincolnshire Council.
 - The application Ref PA/2015/1050, dated 15 August 2015, was refused by notice dated 12 October 2015.
 - The application sought planning permission for the change of use of land to a caravan park (static and touring) without complying with a condition attached to planning permission Ref 2003/0344, dated 24 July 2003.
 - The condition in dispute is No. 6 which states that:
None of the touring caravans shall be parked on the site and none of the static caravans shall be occupied otherwise than for short-term holiday periods or lettings, no single period of which shall exceed four consecutive weeks, and records of the parking and letting periods shall be kept and made available for inspection by the Local Planning Authority upon receipt of a minimum of two weeks' notice in writing.
 - The reason given for the condition is:
The site is in an area where planning permission for the use of caravans for permanent occupation is not normally granted because of the rural location and it's remoteness from employment centres and day-to-day community facilities and services.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission was granted in July 2003 to allow a change of use of land at Newlands Farmhouse to a static and touring caravan park. The appellant has indicated a desire to allow the permanent habitation of plot 3 of the caravan park by the owner and manager of the established Epworth Fields caravan site. The appellant has contended there to be a business need for an onsite presence to support the needs of residents, both when in occupation, and from a security perspective when absent from their units.
 3. In determining the planning application to vary the 2003 permission, the Council highlighted two reasons for refusal; (1) the lack of substantive evidence to justify that the a rural worker would be required to permanently reside on the caravan park; and, (2) as a consequence of reason for refusal (1), the failure of the proposed development to pass the sequential and
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exceptions tests related to flood risk due to the introduction of unjustified permanent residential accommodation within an area of high flood risk.

4. As a consequence, the main issues in this instance are;
 - whether the condition is reasonable or necessary in the interests of whether there is an essential need for a rural worker to permanently live at or near their place of work in the countryside, in accordance with local and national planning policy; and,
 - whether the condition is reasonable or necessary in the interests of the flood risk of the area.

Reasons

Need for a rural worker

5. The appeal site comprises a caravan site located approximately 2 kilometres to the east of the village of Epworth towards the end of a narrow no-through road, Newlands Lane, which serves as an access to several other properties in addition to the caravan site. The site is indicated to accommodate a total of 34 holiday units, which includes 6 holiday cottages located in the former agricultural barns. The site also accommodates an adjacent farmhouse and is close to a further cluster of buildings, surrounded by fields within the open countryside.
6. The Council has highlighted that the proposals fall to be assessed against saved Policy RD2 of the North Lincolnshire Local Plan 2003 (the Local Plan), Policy CS3 of the North Lincolnshire Core Strategy 2011 (the Core Strategy), and paragraph 55 of the National Planning Policy Framework (the Framework). The Development Plan policies seek to control development within the open countryside to that which is essential to the functioning of the countryside, including uses which require a countryside location, subject to certain specific criteria. I also note that paragraph 55 of the Framework, in seeking to promote sustainable development in rural areas, requires housing to be located where it would enhance or maintain the vitality of rural communities and avoiding new isolated homes, unless there are special circumstances such as an essential need for a rural worker to live permanently at or near their place of work in the countryside.
7. In this respect, I am satisfied that the caravan site is correctly regarded as a rural enterprise. In seeking to demonstrate the need for a permanent residence on the appeal site, the appellant has highlighted a series of requirements justifying this contention. These include a requirement for a 'round-the-clock' on-site security presence, the availability of someone in case of medical emergency, the need to fix broken equipment, the supply of extra items to guests, the overseeing of other staff and the acceptance of deliveries, the enforcement of camp rules, and the replacement of gas bottles day and night.
8. I have carefully considered the appellant's submissions in respect of the need for an on-site presence to support the business. However, I note that many of the issues raised in support of permanent residency could be adequately addressed by a daytime/evening manager or warden, without justifying the need for an overnight or permanent presence on the site. Furthermore, if there was an express requirement for assistance on an *out-of-hours* basis, I have not been provided with any compelling evidence why it would not be feasible for an

- individual to essentially be 'on-call' in case of emergencies or other scenarios, but residing within the locality and near to the caravan site within a nearby village or settlement. Whilst I accept it may be more convenient from a business perspective to retain a presence on-site, I do not accept this to be the only possible or feasible solution as a means of addressing the needs of guests.
9. Turning to the matter of maintaining the security of the site, I have had regard to the various submissions from all parties in respect of incidents which have been described as occurring in and around the appeal site over an extended period of time. However, I am mindful that no definitive evidence in the form of crime reports or testimony from the local police constabulary has been provided to corroborate the various claims. I would concur with the Council's contention that the imposition of security lighting and CCTV would have the potential to act as a deterrent to potential criminal activity, and I have not been provided with any robust reasoning why this would not be an effective measure. I do not therefore consider that it has been demonstrated that there would be a need for an on-site presence for security purposes sufficient in itself to justify the need for a dwelling.
10. I have had regard to the references which have been made to a search undertaken by the appellant within the locality for alternative available accommodation. However, it would seem to me that the 1 mile radius employed as a means of defining the search area has effectively limited the search to open countryside, and does not include any part of the nearby settlement of Epworth or any other settlement in the vicinity. I am not persuaded that limiting the search to a radius of 1 mile from the appeal site is justifiable, and whilst I acknowledge the Council's assertion that potentially appropriate properties are available within Epworth to either rent or buy, neither party has presented any detailed evidence in this regard. I have not therefore attached any significant weight to the exercise as carried out and do not consider that an absence of reasonably available and suitable alternative accommodation has been demonstrated.
11. I have carefully considered the appellant's contention that the original permission for the caravan park had envisaged that the park would be run from the farmhouse. However, I note that there is no reference to such a linkage within the original assessment in the Council report supporting planning permission Ref: 2003/0344, and whilst this may have been in practice how the business was previously operated, this is not explicitly referenced or identified as a requirement. I do however accept that the management of the park from a remote location may necessitate the need for additional travel and journeys, which would in this limited respect be less sustainable than permanent on-site occupation.
12. On the basis of the submitted information, I am not persuaded that the appellant has satisfactorily demonstrated that there is an essential need for a rural worker to permanently live at or near their place of work in the countryside. As a consequence, and for the reasons set out above, I conclude that the proposals conflict with Policy RD2 of the Local Plan, Policy CS3 of the Core Strategy, and paragraph 55 of the Framework.

Flood Risk

13. The Framework sets out at paragraph 100 that inappropriate development in areas at risk of flooding should be avoided by directing development away from

areas at highest risk. Paragraph 101 highlights that it is the aim of the Sequential Test to steer new development to areas with the lowest probability of flooding, and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Framework makes it clear that the completion of an Exception Test, comprising an assessment of the wider sustainability benefits of the development to outweigh the flood risk, and the completion of a site-specific Flood Risk Assessment (FRA), should only be undertaken following the application and 'passing' of the Sequential Test. Policy DS16 of the Local Plan and Policy CS19 of the Core Strategy set out the Development Plan basis for addressing flood risk.

14. The appellant's FRA submitted with the planning application, indicates that the appeal site lies wholly within Flood Zone 2/3, with the flood risk vulnerability classification of the proposed occupation of a caravan for permanent residential use highlighted by the Environment Agency as being 'highly vulnerable' rather than 'more vulnerable' as assessed in the FRA. I also note that the Environment Agency considers the site to be located within Flood Zone 3.
15. I note that the appellant has disputed the need in this instance for the provision of a detailed Sequential Test on the basis that the proposed development is for a manager's accommodation located within the caravan park. As a consequence, a detailed Sequential Test has not been undertaken by the appellant on the basis of the operational need attached to the accommodation rendering such a search of alternative sites as being pointless. However, for the reasons set out in the first main issue, I have concluded that there is no demonstrable justification for a rural worker to permanently live on the caravan park, and as such it would be necessary for a Sequential Test to be completed. As a consequence, the appellant's stance with regards the non-provision of a Sequential Test sits contrary to both local and national policy guidance, in that the application and 'passing' of the Sequential Test is the precursor to the completion of the Exception Test.
16. I have had regard to the appellant's brief submissions in respect of the Exception Test and the conclusions reached by the submitted FRA, as well the absence of an objection from the Environment Agency on technical flood risk matters. However, I am mindful that paragraph 102 of the Framework sets out that both the Sequential and Exception Tests must be passed for a development to be permitted. My conclusions on the failure of the Sequential Test alone result in the proposed development not having adequately addressed flood risk. As a consequence, the proposal would not be in accordance with Policy DS16 of the Local Plan and Policy CS19 of the Core Strategy, or paragraphs 101 & 102 of The Framework.

Other Matters

17. In considering the appeal proposals, I have noted the references to the potential impact that the absence of an on-site presence would have on the popularity and rating of the business, and also the assertion that most caravan parks have some form of 24 hour presence. I have also had regard to the various examples cited as case law and justification, brief details of which the appellant has submitted. Nevertheless, I note that the supporting information provides little in the way of context from which to confirm that either the location, circumstances, or overall size of the sites referred to are directly

comparable to the appeal site, and whilst I have had regard to the reference to national guidance stated as requiring a managerial presence on holiday parks, no explicit detail of this guidance has been provided in support of the appeal proposals.

18. I would not disagree with the appellant's point that the Framework provides support for sustainable rural tourism that benefits businesses within rural areas. However, I do not consider that the limited submitted evidence and testimonies ultimately demonstrate that the business would be adversely affected as a consequence of the absence of a permanent on-site presence, or that it would be unable to further grow in the future.
19. I have also had regard to the personal circumstances and issues raised by the appellant, including the difficulties related to obtaining a mortgage on the adjacent farmhouse. Whilst I have sympathy with the position in which the appellant found herself, as I have already set out in respect of the first main issue, and as the appellant acknowledges, there was no formal linkage secured within the original planning permission tying the farmhouse as a constituent part of the business enterprise of the adjacent caravan park. This is therefore a matter which would carry only very limited weight in support of the proposals, which would not outweigh the harm set out in the main issues.
20. I have also had regard to the concerns and local opposition to the proposals, which in addition to points made in respect of the main issues, have been expressed as including concerns regarding the appropriateness of the access to the site and highway impacts. However, I note that highway issues would have been addressed at the time of determining the original application for the caravan park, and whilst I have had regard to the submissions on other matters, given my conclusions on the main issues, these have not proved to be central or critical to my determination of the appeal.

Conclusion

21. For the reasons given above, I conclude that the appeal should be dismissed.

M Seaton

INSPECTOR