
Appeal Decision

Site visit made on 8 May 2017

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

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

Decision date: 17 May 2017

Appeal Ref: APP/Y1138/W/17/3170327
Ingleton Farm, Ashill, EX15 3NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs A & D Sheard against the decision of Mid Devon District Council.
 - The application Ref 16/01117/FULL, dated 17 July 2016, was approved on 14 December 2016 and planning permission was granted subject to conditions.
 - The development permitted is the change of use of agricultural land and buildings to form a camping site, to include provision for 2 shepherd's hut pitches, 2 safari tent pitches, and 6 bell tent pitches; conversion of existing stables to shower/toilets, office, meeting room, sensory room for visitors, washing facilities, and storage; erection of 2 new blocks to serve campsite; and formation of equestrian area for grazing of miniature horses.
 - The condition in dispute is No 1 which states that: *The use hereby permitted shall be discontinued on or before 14 December 2019 and, prior to its discontinuance, a scheme for the restoration of the site (to include the removal of all new structures) shall be submitted to, and approved in writing by the Local Planning Authority. The approved restoration scheme shall be fully implemented within 6 months of the use discontinuing.*
 - The reason given for the condition is: *To enable the applicant to establish the business to ascertain whether the use of the site as a camping site is financially viable in accordance with DM24 of the Mid Devon Local Plan Part 3 (Development Management Policies). To achieve restoration of the site in the interests of visual amenity once the use has ended in accordance with DM2 and DM24 of the Mid Devon Local Plan Part 3 (Development Management Policies).*
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Decision

1. The appeal is allowed and the planning permission Ref 16/01117/FULL for the change of use of agricultural land and buildings to form a camping site, to include provision for 2 shepherd's hut pitches, 2 safari tent pitches, and 6 bell tent pitches; conversion of existing stables to shower/toilets, office, meeting room, sensory room for visitors, washing facilities, and storage; erection of 2 new blocks to serve campsite; and formation of equestrian area for grazing of miniature horses at Ingleton Farm, Ashill, EX15 3NP, granted on 14 December 2016 by Mid Devon District Council, is varied by deleting Condition No 1 and substituting for it the following condition:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The permission is also subject to the other conditions imposed therein, so far as they are still subsisting and capable of taking effect.

Application for costs

3. An application for costs was made by Mr & Mrs A & D Sheard against Mid Devon District Council. This application is the subject of a separate Decision.

Background and Matters of Clarification

4. The appellants are seeking to change the use of the appeal site from agricultural land to a camping/glamping site equipped with 2 shepherd's huts, 2 safari tents and 6 bell tents, together with ancillary uses created by converting an existing L-shaped wooden stable block. The site would also accommodate 2 new small wooden buildings, a paddock area for miniature horses, a vehicle parking area, play areas and a sensory garden. This last feature is included because the appellants indicate that this camping/glamping facility would be aimed specifically, but not exclusively, towards families which have autism within them.
5. Pre-application advice was sought from the Council and planning officers raised no objection to the principle of a camping site at this location and provided general support in planning policy terms. Following submission of the planning application, consultations undertaken by the Council produced no objections from internal or external bodies responsible for environmental health, and water supply and sewerage; nor from Natural England, the Local Highway Authority (subject to improvements to the access), or Uffculme Parish Council.
6. A number of objections were, however, raised by local residents, and were repeated and elaborated upon at appeal stage. They cover such matters as the impacts on living conditions of nearby residents; the effect on the character and appearance of the surrounding area; drainage; highways and parking; risks to adjacent farm buildings; and the fact that there would be no overnight management presence on the site.
7. These concerns were not supported by the Planning Committee, which resolved to grant planning permission in line with the planning officer's recommendation, subject to a total of 14 conditions. Most of these conditions had either been recommended by the planning officer, or served to clarify some detailed aspect of the permission. However, Condition No 1, which had not been discussed in advance with the appellants, requires the permitted use to be discontinued on or before 14 December 2019, and for a scheme for the restoration of the site to be submitted to the Council for approval.
8. The appellants are appealing the imposition of Condition No 1 and seek its removal. It should be noted, however, that because the appeal has been lodged within 6 months of the grant of planning permission, I am required to determine it in accordance with section 79(1) of the Town and Country Planning Act 1990. This enables the decision maker to (a) allow or dismiss the appeal, or (b) reverse or vary any part of the decision of the Local Planning Authority (whether the appeal relates to that part or not) and deal with the application as if it had been made to him in the first instance. Accordingly, I have considered all aspects of the proposal, not simply the merits or otherwise of Condition No 1.

Main Issues

9. Having regard to the points detailed above I consider that the main issues are:
 - 1) The effect of the proposed development on the character and appearance of the surrounding area;

- 2) Its effect on the living conditions of nearby residents, with particular reference to noise, privacy, light intrusion and odours;
- 3) Its effect on the safety and convenience of users of the adjacent highways;
- 4) Whether adequate and satisfactory justification has been provided for the proposed development;
- 5) Whether Condition No 1 is necessary and reasonable, having regard to the main issues detailed above.

Reasons

Main issue 1 – the effect on character and appearance

10. The appeal site extends to some 0.78 hectares and lies in a countryside location outside the defined settlement limit of Ashill. It therefore falls to be considered against Core Strategy¹ (CS) Policy COR18 which, amongst other things, permits appropriately scaled tourism-related development in the countryside, including the conversion of existing buildings, provided such development sustains the environmental qualities of the countryside. Also relevant is Local Plan² (LP) Policy DM24, dealing with Tourism and Leisure Development. Amongst other matters this makes it clear that the nature of proposed development outside defined settlements must justify a countryside location and minimise environmental impacts. Specifically it requires development proposals to respect the character and appearance of the location.
11. A gated entrance along the appeal site's western boundary provides access from the public highway to an area of rough hardstanding, with the L-shaped stable block to the south and a small paddock area to the north. The site then extends in a linear form away from the highway, rising up to the eastern boundary, beyond which lie mature trees and further agricultural land. A number of large, agricultural buildings, associated with a working farm lie immediately to the south, beyond a boundary comprising a native hedgerow and trees; whilst a residential property (Brimley Cottage) abuts the paddock area to the north, with open, agricultural land abutting much of the rest of the site's northern boundary which, again, is formed of native hedgerows. A few other residential properties are located further to the north.
12. The bell tents, shepherd's huts and safari tents are to be sited along the linear east/west part of the site and I saw at my visit that the 2 safari tents are in place in the site's south-eastern corner. They are fairly large timber-framed structures with canvas walls and roofs, measuring some 11.5m by 5m and rising to a ridge height of about 3.6m. I have noted the representations from some interested persons which contend that the tents are higher than shown on the submitted plans, but it seems to me that this is simply the effect of the sloping land, which requires the western (front) ends of the tents to be raised slightly to achieve a level floor. I am not persuaded that this modest increase in height has any material impact in visual terms.
13. Whilst parts of the roofs and upper sides of these tents can be seen or glimpsed in views from the public highway and neighbouring land, the existing native hedgerow boundaries which are to be retained and maintained do provide some screening. In any case, the general form of the tents is not unlike that of

¹ Mid Devon Local Development Framework Core Strategy 2026, adopted July 2007

² Mid Devon District Council Local Plan Part 3 – Development Management Policies, adopted October 2013

agricultural buildings and this, coupled with the subdued colours of the tents, means that they do not appear out of keeping or unduly intrusive in this setting.

14. The 2 shepherd's huts are proposed to be sited in the north-eastern part of the site's linear section. They would measure about 5.9m by 2.6m, with an overall height of some 3.4m, although the lower parts of the huts would be screened by the boundary hedging such that only the upper parts would be visible from neighbouring land. I saw no other similar huts in the vicinity but I do not consider that these traditionally-designed structures would appear incongruous or out of keeping at this location. Finally, the proposed bell tents would be smaller and lower, with a radius of about 2.5m and a height of some 3m and, again, would be largely screened by the boundary vegetation.
15. The only other new structures proposed for the site are the 2 relatively small detached wooden buildings which would be sited at the western end of the site, adjacent to the existing stable block. One of these (on site at the time of my site visit), is intended to provide an office/shop to serve the campsite, whilst a further building is proposed to provide a store/stables for the miniature horses. In my assessment these modestly-sized timber buildings would not be out of keeping alongside the timber stable block.
16. I acknowledge that the camping/glamping facility would bring with it a number of vehicles, which would need to be parked on the site, either in the dedicated parking area or adjacent to the tents and huts, and that there would also be activity created by the campers, including children using the proposed play areas. However, such activities are part and parcel of the operation of a rural campsite, and I see nothing inherently harmful in such activity associated with a new tourism venture, in character and appearance terms. In any case, the appeal site and surrounding land has no special designation, and although the Blackdown Hills Area of Outstanding Natural Beauty (AONB) does lie some little distance away, there is no firm evidence before me to suggest that the appeal proposal would have a materially adverse impact on the AONB, or the countryside in general.
17. Having regard to the above points I conclude that the appeal proposal would not have any unacceptable impact on the character and appearance of the surrounding area. Accordingly I find no material conflict with the relevant parts of policies COR18 and DM24 referred to above, nor with LP Policy DM20 which deals with rural employment development.

Main issue 2 – the effect on living conditions

18. A number of the representations from interested persons contend that the operation of the camping/glamping facility would have an unacceptable impact on the living conditions of nearby residents, through such things as noise, privacy, light intrusion and odours. However, I saw at my visit that the site occupies a relatively isolated location insofar as proximity to residential properties is concerned, and this leads me to the view that it would only be occupiers of Brimley Cottage, the closest property, who would potentially experience any material impact with regard to such matters.
19. Even then, the land adjacent to the dwelling is only proposed to be used as a paddock area for miniature horses, not for the camping or glamping activity. In fact the nearest tents would be at least some 45m or so away from clear glazed windows in the cottage's southern elevation, angled away to the south-east, and

separated by 2 lengths of hedgerow in addition to the new planting proposed along the appeal site's northern boundary, close to this cottage. Furthermore, there would be a separation of 50m or so between these cottage windows and the proposed parking area, with the converted stable block and proposed play areas still further away.

20. With these points in mind, and having regard to the landscaping plan to be secured through Condition No 9 on the existing planning permission, I consider that occupiers of Brimley Cottage would not experience any unacceptable loss of privacy or loss of outlook as a result of the proposed development.
21. Whilst I have noted the comments regarding increased levels of lighting on the site I saw limited external lighting at my visit, although there did appear to be a security or spotlight on the north-eastern side of the stable block (largely shielded by the new office/shop building), and possibly some lighting units on the front elevations of the stables. Condition No 10 is, however, quite clear that any external lighting has to be approved in writing by the Council, before it can be installed. Whatever the current situation may be, I see no reason why this condition could not adequately and satisfactorily protect the general amenity of the area and the living conditions of nearby residents.
22. Insofar as noise is concerned, it is clearly the case that activity associated with a camping and glamping facility for 10 units is highly likely to generate more noise than any former use of the land in connection with the existing stables. However, the consultation response from the Council's Environmental Protection Officer (EPO) indicates that the noise from a camping or glamping site is likely to be very sporadic in its nature, and well below the noise levels created by farm vehicles and other vehicles on the road past the site. Overall the EPO comments that noise from the site is very unlikely to result in adverse or significant adverse noise impact, and there is no firm, factual contrary evidence before me to cause me to disregard these views.
23. Objections have also been raised on the grounds that the camping/glamping activity could give rise to unacceptable odours and smells arising from campfires and the on-site toilets. I have, however, already noted that activity on the site would take place some distance away from the nearest residential property, with the toilet block being sited at the site's south-western corner, and the tents and shepherd's huts sited well away from Brimley Cottage. As such, I consider it very unlikely that smells and odours from any on-site activity would be so noxious as to cause any significant problems to nearby residents. In any case, as the Council's EPO has stated, statutory nuisance legislation could be used to deal with any such occurrences if they did arise.
24. In light of the above points I conclude that the appeal proposal would not give rise to any unacceptable impact on the living conditions of nearby residents, especially those at Brimley Cottage, through such matters as noise, light pollution, odours or loss of privacy. As such, I find no conflict with LP Policy DM2 which, amongst other things, seeks to safeguard such matters.

Main issue 3 – the effect on safety and convenience of users of the nearby highway

25. Several of the representations raised concerns about the narrow and twisting nature of roads in the locality, and their ability to satisfactorily accommodate the additional traffic likely to be attracted to the area by the proposed development. Particular concern was expressed regarding highway safety, not only for drivers,

but also for other road users such as pedestrians, cyclists and horse riders, especially as visitors to the site could well be unfamiliar with such roads.

26. These are important concerns, and it is quite understandable that local residents have raised them. However, the Local Highway Authority (HA) is also clearly aware of such matters and, despite the assertions of interested persons, there is no firm evidence to suggest that the HA has only considered matters of highway capacity. No detailed traffic figures or accident statistics have been put before me, but I consider that there would only be a very small increase in the daily traffic flows in the area from this modestly-sized site, housing a maximum of just 10 camping/glamping units. Moreover, it seems to me that adequate on-site parking would be provided, such that it is unlikely that any visitors would need to try and park off-site.
27. For all these reasons I conclude that the appeal proposal would not result in any significant worsening of highway safety, and would therefore not have an unacceptable impact on the safety and convenience of users of the adjacent highway network. Accordingly I find no conflict with the relevant parts of LP policies DM2 (High Quality Design), DM8 (Parking) and DM24 (Tourism and Leisure Development) which deal with such matters.

Main issue 4 – justification for the proposed development

28. From the submitted evidence and my observations at the site visit, I consider that this modestly-sized tourism proposal would offer a clear opportunity to support the local, rural economy by potentially increasing patronage of local facilities in Ashill (such as the public house), and in other nearby villages. As such it represents an appropriate form of rural diversification, in accordance with CS Policy COR18. In addition, as it would make use of the existing stable block, and as no firm evidence has been placed before me to show that any comparable camping and glamping sites exist elsewhere in the locality, it would also accord with other parts of LP Policy DM24, already referred to above.
29. This policy's supporting text states that a marketing strategy and business plan needs to be submitted, to explain how the development will achieve a high quality tourism product that meets demand. To comply with this requirement the appellants submitted a business plan which provides details about the business; sets out the measures to be taken to make the site autism friendly; considers the likely impact on the local economy; discusses the competition; sets out a time-line and target for the development (including likely risks to success); and considers marketing matters. Although detailed financial information has been removed from the version of the business plan placed before me, the appellants' appeal statement indicates that the proposed development would involve a significant financial investment for the purchase of the shepherding huts and the provision of the proposed new stable³.
30. Council Members were somewhat dismissive of this business plan, referring to it as "aspirational", and I accept that it does not amount to a detailed assessment of the proposal's financial viability. However, there is nothing within Policy DM24, or its supporting text, to say that such a viability assessment is required, even though that is the implication of the reason given for the imposition of disputed Condition No 1. Because of this, and notwithstanding the views of the

³ A figure of some £76,000 is given in the appellants' appeal statement for the shepherd's huts, and £5,000 for the new stable block

Council and many of the interested persons, I consider that the submitted information satisfies the requirements of Policy DM24.

31. For the above reasons I conclude that the appellants have provided adequate justification for the proposed development, in accordance with the relevant aforementioned policies.

Main issue 5 – whether Condition No 1 is necessary and reasonable

32. The evidence before me indicates that at no time prior to the consideration of this proposal by the Planning Committee was the prospect of only a temporary planning permission being granted discussed with the appellants. The appellants were therefore given no indication that their business plan and marketing strategy did not accord with LP Policy DM24 and, indeed, no clarity on this point is provided by the reason given for the imposition of Condition No 1. All that the reason states is that the condition has been imposed to enable the applicant (sic) to establish the business, to ascertain whether the use of the site as a camping site is financially viable in accordance with LP Policy DM24.
33. But as I have already made clear, financial viability does not form one of the tests contained within policy DM24, nor is financial viability of a proposal mentioned in the policy's supporting text. Whilst it is clearly reasonable to expect a new business venture to generate a return on investment (as stated in the Council's appeal statement), the fact remains that this is not a specific policy requirement.
34. More important considerations are whether or not the proposal would give rise to any unacceptable harm, and whether it would accord with the development plan. The planning officer's report to Committee stated that subject to conditions the proposal would be respectful of the character and appearance of the rural location; had demonstrated that the need for the facility is not met by existing provision within nearby settlements; would not adversely impact upon the living conditions of occupiers of Brimley Cottage; and would provide a safe and suitable access to the public highway. As such, the report also stated that the proposed development would accord with relevant CS and LP policies and, as is made clear in my consideration of the main issues, I share these views.
35. Moreover, I note that in granting planning permission Council Members did not take a contrary view on any of these points as there is nothing in the disputed Condition No 1, or the reason for its imposition, to indicate that there is any clear policy conflict or likely harm. Because of this I do not consider that any need for this condition has been demonstrated.
36. Furthermore, I share the appellants' view that, as worded, the condition is of questionable precision and is unreasonable. The condition unambiguously requires the appellant to cease the permitted use at the end of a 3 year period, and to have submitted a scheme for the restoration of the site. Despite what the Council may have intended, the condition provides no indication of what - if anything - the appellants can do to avoid having to discontinue the use. The only guidance available is contained within LP Policy DM24, with which I consider the appellants have already complied.
37. It is clear that to fully implement the proposed camping/glamping facility a significant amount of expenditure would be involved, and to my mind it is unreasonable to expect the appellants to make that size of investment yet at the

same time be told that the use would have to cease in 3 years' time, even though no significant harm or development plan conflict has been identified.

38. Indeed on this latter point the Planning Practice Guidance (PPG) advises that a condition limiting use to a temporary period only, where the proposed development complies with the development plan, will rarely pass the test of necessity⁴. Moreover, this section of the PPG also advises that a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. In this case, even though the 2 new buildings are only proposed to be of timber construction, there is nothing to suggest that they should not be treated as permanent buildings, such that in my view this PPG advice applies here.
39. For the above reasons I consider that Condition No 1 does not accord with the tests for the imposition of planning conditions set out in the National Planning Policy Framework (the Framework) at paragraph 206, and confirmed in the PPG. I therefore conclude that it is neither necessary nor reasonable.

Other matters

40. As well as raising concerns about the matters considered under the above main issues, interested persons also contend that the appeal proposal would not amount to sustainable development and would therefore be in conflict with LP Policy DM1. However, in essence, this policy indicates that proposals which accord with policies in the development plan constitute sustainable development - a point also implicit in paragraph 14 of the Framework. In light of these matters I am satisfied that the appeal proposal should be seen as sustainable development, and would therefore be in accordance with this LP policy.
41. Finally, although interested persons have raised other concerns on matters of drainage, flooding, staffing levels, site security and animal welfare, these have not been supported by any firm evidence, and it seems to me that none of these points go to the heart of the main issues upon which this appeal should be determined.

Conclusion

42. Drawing all the above points together, my overall conclusion is that the appeal proposal represents an acceptable development, which would not conflict with the development plan. I therefore allow this appeal, replacing the disputed Condition No 1 with the standard condition requiring the development to be begun within 3 years of the date of this decision. I have had regard to all other matters raised, but they are not sufficient to outweigh the considerations which have led me to my conclusion.

David Wildsmith

INSPECTOR

⁴ PPG Paragraph: 004 Reference ID: 21a-014-20140306