



Appeal Decisions

Site visit made on 19 June 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 2 August 2019

Appeal A Ref: APP/J3530/W/19/3225385

Park Farm, Chapel Road, Bucklesham IP10 0BT

- 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 B Humphreys against the decision of Suffolk Coastal District Council.
 - The application Ref: DC/18/3891/VOC, dated 19 September 2018, was refused by notice dated 15 November 2018.
 - The application sought planning permission for the change of use of agricultural land and DIY livery to caravan park for up to 62 static caravans to be occupied on a seasonal basis and 26 touring pitches without complying with a condition attached to planning permission Ref: DC/17/2535/FUL, dated 10 November 2017.
 - The condition in dispute is No 4 which states that: Only plots 1-62 shown on the hereby approved layout drawing shall be used for stationing of static caravans. These units herein referred to shall be used for holiday letting accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987). The duration of occupation by any one person or persons, of any of the holiday units shall not exceed a period of 56 days in total in any one calendar year, unless the Local Planning Authority agrees in writing to any variation. The owners/operators of the holiday units hereby permitted shall maintain an up-to-date Register of all lettings, which shall include the names and addresses of all those persons occupying the units during each individual letting. The said Register shall be made available at all reasonable times to the Local Planning Authority.
 - The reason given for the condition is: To ensure that the development is occupied only as bona-fide holiday accommodation, having regard to the tourism objectives of the Local Plan and the fact that the site is outside any area where planning permission would normally be forthcoming for permanent residential development.
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Appeal B Ref: APP/J3530/W/19/3225391

Park Farm, Chapel Road, Bucklesham IP10 0BT

- 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 B Humphreys against the decision of Suffolk Coastal District Council.
 - The application Ref: DC/18/5244/VOC, dated 21 December 2018, was refused by notice dated 12 February 2019.
 - The application sought planning permission for the change of use of agricultural land and DIY livery to caravan park for up to 62 static caravans to be occupied on a seasonal basis and 26 touring pitches without complying with a condition attached to planning permission Ref: DC/17/2535/FUL, dated 10 November 2017.
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Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural Issues

2. As set out above, this decision relates to two appeals. Both of the appeals relate to the period of occupancy being limited by way of a fixed break period from 5 January to 5 February and the number of days in any calendar year on the basis of different permutations. Given that the appeals are so closely related in all respects and to avoid duplication, I have dealt with both appeals together in one decision letter.
4. The Suffolk Coastal Local Plan has been submitted for examination. However, as it has yet to be examined and found to be sound, it could still be subject to change. Therefore, I attach limited weight to the emerging Local Plan as a material consideration.
5. On 1 April 2019 Suffolk Coastal District Council merged with Waveney District Council to become East Suffolk Council. The development plans for the merged local authority remain in place for the former area of the Suffolk Coastal District Council until such a time as it is revoked or replaced. It is therefore necessary for me to determine this appeal with reference to policies set out in the plans produced by the now dissolved Suffolk Coastal District Council.

Background and Main Issue

6. Planning permission has been granted for the change of use of agricultural land and a livery to a caravan park for up to 62 static caravans and 26 touring pitches. The appeal seeks permission to carry out the development without complying with condition 4 (the condition). The condition prohibits permanent residential occupation of the static caravans by limiting the period of residential occupation by a single person or persons to no more than 56 days in each calendar year (the 56 day limitation).
7. For Appeal A, the appellant seeks to vary the condition by removing the 56 day limitation and replacing it with a prohibition on occupancy between the 5 January and 5 February in any one calendar year for all 62 static caravans.

8. For Appeal B, the appellant seeks to vary the condition by removing the 56 day limitation and replacing it with a prohibition on occupancy between the 5 January and 5 February in any one calendar year for static caravan plots 1-6 and 59-62 inclusive. For the remainder of the plots, the duration of occupation by any person or persons shall not exceed a period of 56 days limitation in any calendar year.
9. Planning Permission DC/17/2535/FUL has in part been implemented in that works have commenced on the formation of vehicular access to the site, part layout of the site, including a small number of plots where static caravans have been sited.
10. The main issue is whether the condition is reasonable and necessary and, if so, whether an alternatively worded condition would ensure there would not be an increased risk that the static caravans were not occupied on a permanent basis as residential accommodation.

Reasons

11. By reason of its location outside of the physical settlement boundary of any nearby settlement, the appeal site is deemed to be within the countryside where new housing is not permitted unless in exceptional circumstances. Policies SP1 and SP19 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies Development Plan Document (2013)(LP) set the sustainable principles of development and, among other things, require that housing opportunities are well related to one another and to supporting infrastructure whilst minimising the overall need to travel. LP Policy SP8 seeks to locate development for tourism within sustainable locations. As such, permanent occupation of the static caravans would be contrary to the provisions of local plan policies.
12. LP Policy DM18 prescribes that where permission is granted for static holiday caravans, cabins and chalets, a condition will normally be imposed to ensure that no holiday unit on the site shall be occupied by the same person for 56 days or more in a calendar year. The Council advises that this wording has been carried through to the Council's emerging Local Plan.
13. The primary justification for imposing the condition is to ensure that this type of accommodation is not occupied on a permanent basis by a person(s) as their main residence. It therefore follows that the static caravans would remain as bona-fide holiday accommodation rather than as a permanent dwelling and would strengthen the tourist economy to ensure that a variety of accommodation is available for tourists.
14. Accordingly, the condition is necessary as without it the static caravans would be capable of being occupied as permanent dwellings. Thus, I find that a condition preventing any person occupying the static caravans as their sole residence continues to serve a useful purpose having regard to the current development plan. Hence, it satisfies the test of being reasonable and necessary, as set out by paragraph 55 of the National Planning Policy Framework (the Framework).
15. The appellant has drawn my attention to the findings of the Inspector who determined a recent appeal decision¹ in Newbourne. In that appeal an

¹ APP/J3530/W/17/3187178

alternative condition was applied that prohibited occupation of the units between the 5 January and 5 February in any calendar year. That Inspector concluded that the alternative condition would be a means of ensuring that the units were not permanently occupied and that such a condition was readily enforceable through the keeping of a lettings register.

16. The Inspector had regard to the Council's 'Economic Benefits of Tourism' study (2016), concluding that the effect of average occupancy being in excess of 3.84 nights would be offset by the generation of greater expenditure outside the peak holiday season. Whilst I do not necessarily disagree with the Inspector's findings, to my mind, there would be no control preventing occupation of the static caravans by a sole person(s) as their main residence for as many as up to eleven months in any one calendar year. Whilst a person(s) would be prohibited from residing for a full year, this does not automatically mean that such occupation does not amount to their main residence. In the event of this occurring there would be little, if any, opportunity to offset the decrease in tourism expenditure by allowing the static caravan to be rented out to others during the periods when it was not being used by the main occupant. Therefore, I find that the alternative condition that proposes a month-long winter break would be likely to curtail tourism expenditure overall.
17. I accept that there has been an increase in demand for UK based holidays, however, whilst the appellant suggests that the 56 day limitation makes owner-occupancy unattractive, there is no evidence before me to substantiate that marketing of the static caravans with the present restriction has been unsuccessful, nor that the appeal site is unable to commercially exist in the absence of owner-occupancy sales or where it is unable to receive a ground rent.
18. Furthermore, at the time of my site visit, I observed that a small number of static caravans were in place and I considered these were attractive and modern. As such, in the absence of any evidence to the contrary, I find that the static caravans are likely to be attractive to future guests, irrelevant of whether they are owner-occupied or rental statics.
19. Overall, I find that the condition is reasonable and necessary. Whilst it prohibits a person(s) from occupying a static caravan for 56 days or more during a calendar year, the static caravan is still capable of being occupied consecutively for up to a full year, particularly given that the standard of accommodation is able to maintain all year round occupation, including during the winter months. Albeit Appeal B proposes to maintain a 56 day limitation on the majority of the static caravans, this would not address the more fundamental concerns I have described above.
20. Reference has been made to The Good Practice Guide for Tourism which is supportive of year round tourist accommodation, however, such support for tourism accommodation through the planning system is not uncaveated and needs to be considered within the context of the Framework which seeks to secure a sustainable rural tourism economy.
21. Accordingly, a condition restricting the occupancy of the static caravans is necessary and reasonable. I find that the replacement of the 56 day limitation on occupancy with a fixed period prohibition on occupancy would undermine the reason for the imposition of the condition. It would conflict with LP Policies

DM18 and SP8, the requirements of which are set out above and the provisions of the Framework.

Other Matters

21. The appellant has drawn my attention to other examples of similar developments where a fixed period prohibiting occupancy has been allowed by the Council when granting permission. However, I have limited information relating to the particular circumstances of these developments and whether they are therefore comparable to the appeal proposal. In addition, with regards to the permission in Wantisden² there was a valid fall-back position in place. As such, a comparison to these cases is of limited relevance in this instance and I have considered the appeal before me on its individual planning merits.
22. The appellant suggests that the condition as presently worded is burdensome in terms of monitoring and enforcement. Whilst a break period would likely require less monitoring and input in terms of time and resource, including for the Council, this does not justify the alternative condition(s). I do not consider the present wording of the condition to be over burdensome. I am also mindful that how the exact monitoring and checking would take place is a matter for the Council.

Conclusion

22. For the above reasons, and having regard to all other matters raised, I conclude that Appeal A and Appeal B should be dismissed.

E Brownless

INSPECTOR

² DC/16/5009/FUL