



Appeal Decision

Site visit made on 24 July 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/C2741/W/19/3228418

Cherry Tree Cottage, Millfield Lane, Nether Poppleton, York YO26 6NX

- 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 Martin Reynolds against the decision of City of York Council.
 - The application Ref 19/00561/FUL, dated 5 March 2019, was refused by notice dated 1 May 2019.
 - The application sought planning permission to increase the number of caravan pitches from 11 to 15 and construct seven additional hardstandings to existing and additional pitches without complying with a condition attached to planning permission Ref 16/00093/FUL, dated 10 March 2016.
 - The condition in dispute is No 5 which states that: The accommodation hereby approved shall not be used for residential purposes other than holiday letting. For the purpose of this condition "holiday letting" means letting to the same person, group of persons or family for period(s) not exceeding a total of 28 days in any one calendar year. The site operator shall maintain an up-to-date register of the names and main home addresses of all occupiers of the accommodation on site and shall make this information available at all reasonable times when requested by the Local Planning Authority. The stay of no individual caravan or motorhome on the site hereby permitted shall exceed 28 days in any calendar year.
 - The reason given for the condition is: In order to prevent the full-time residential occupation of the site. The site is not considered appropriate for full time residential use due to its position in the Green Belt.
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Decision

1. The appeal is allowed and planning permission is granted to increase the number of caravan pitches from 11 to 15 and construct seven additional hardstandings to existing and additional pitches without complying with a condition attached to planning permission Ref 16/00093/FUL at Cherry Tree Cottage, Millfield Lane, Nether Poppleton, York YO26 6NX in accordance with the terms of the application, Ref 16/00093/FUL, dated 10 March 2016, subject to the conditions set out in the attached schedule.

Main Issue and Background

2. The Council's report details that the current use of the site has developed from a certified site for up to 5 caravans under The Caravan Sites and Control of Development Act 1960. In March 2013 planning permission¹ was granted for the *change of use of land to allow 11 touring caravan pitches*.

¹ 12/03752/FUL

Subsequently, consent² was granted in March 2016 for the *increase number of caravan pitches from 11 to 15 and construct seven additional hardstandings to existing and additional pitches*. It is the latter consent to which the disputed condition was attached.

3. In their appeal statement, the Appellant has clarified that they are not seeking to extend the maximum stay in a single visit from 28 to 56 days. Therefore, the effect of the variation sought by the Appellant is to increase the total number of days any caravan can be on site from 28 to 56 days per year while retaining the maximum stay of 28 days and to use pitch no.1 for a warden's caravan for up to 8 months of the year.
4. The main issue is the effect of varying the disputed condition on the openness of the Green Belt.

Reasons

5. The appeal site is generally level with established hedges and small trees to the boundaries of the site. The site is situated within the Green Belt in a narrow wedge of agricultural fields that separate Nether Poppleton from York, ringed by the busy A1237.
6. At my site visit I observed that the existing boundary treatment provides an effective screen to the adjacent Millfield Lane and to a lesser extent to the adjacent agricultural field.
7. The appeal site is however detached from neighbouring settlements and occupies a prominent and open position in the surrounding area. As such, the site is not appropriate for full time residential use, this is not at dispute between the parties, and consequently a suitably worded condition to prevent the permeant occupation of the site is necessary.
8. I note that Nether Poppleton Parish Council objected to the application referring to the PNP1 of the Upper Poppleton and Nether Poppleton Neighbourhood Plan that seeks to protect the openness of the Green Belt and reiterating that the site is not suitable for permeant residential occupation, although this policy has not been referred to by the Council in their decision notice.
9. Varying the condition to increase the total number of days that a caravan could be on site in any calendar year while retaining the maximum length of any one stay at 28 days and requiring the caravan to be removed from the site for a minimum of two days as detailed in the Council's suggested condition, would ensure that the occupation of the site would not result in any increase in the permanency of occupation on the site.
10. Thus, I find that a variation of the disputed condition that would retain the maximum length of any one stay at 28 days would protect the openness of the Green Belt.
11. In the appeal statement, the Appellant details that the warden's pitch would not be occupied continuously for 8 months but does not detail what maximum continuous period limit is sought. The use of a single plot for a warden's caravan for long periods, in excess of 28 days currently allowed,

² 16/00093/FUL

over 8 months of the year would lead to the introduction of a significant element of permeance that would impact on the openness of the Green Belt.

12. To conclude on this main issue, I find that varying the disputed condition to allow the occupation of the site for a maximum of 56 days in any calendar year and 28 days continuously, would protect the openness of the Greenbelt and as such is not contrary to policy GB1 of the City of York Local Plan (Publication Draft February 2018) (the LP) and policy PNP1 of the Upper Poppleton and Nether Poppleton Neighbourhood Plan (the NP).
13. However, I find that allowing pitch 1 to be used for a warden's caravan for long periods over 8 months of the year would impact on the openness of the Green Belt and as such would be contrary to policy GB1 of the LP and policy PNP1 of the NP.

Conditions

14. The guidance in the Planning Practice Guidance 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 the original planning permission, I shall impose all those. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
15. In order to prevent the full-time residential occupation of the site which would have an unacceptable detrimental impact on the openness of the Green Belt it is necessary to include a condition to restrict the occupation of accommodation on the site to periods not exceeding a total of 56 days in any one calendar year with each individual stay being no more than 28 days with a minimum of a two-day break between stays.

Conclusion

16. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but substituting another and restating those conditions that I consider remain relevant.

Mark Brooker

INSPECTOR

Schedule of Conditions

1. The accommodation hereby approved shall not be used for residential purposes other than holiday letting. For the purpose of this condition "holiday letting" means letting to the same person, group of persons or family for period(s) not exceeding a total of 56 days in any one calendar year with each individual stay being no more than 28 days with a minimum of a two-day break between stays. The site operator shall maintain an up-to-date register of the names and main home addresses of all occupiers of the accommodation on site and shall make this information available at all reasonable times when requested by the Local Planning Authority. The stay of no individual caravan or motorhome on the site hereby permitted shall exceed in total 56 days in any one calendar year with each individual stay being no more than 28 days with a minimum of a two day break between stays.
2. The development hereby permitted shall be carried out in accordance with the following plans and other submitted details: - Plan 2 Site layout plan scale 1/200 (revised for proposed hedging specification) dated 9.3.2016. Site plan showing red line application area and blue line land ownership.
3. Notwithstanding the provisions of Schedule 2 Part 5 'Caravan Sites' Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order), no buildings shall be erected on site without the prior written consent of the Local Planning Authority through the submission of a planning application.
4. This permission allows only the siting of touring caravans and motor homes. At no time shall more than fifteen touring caravans/motorhomes be accommodated on site. At no time shall static caravans or tents be permitted on site.
5. All hard surfacing shown on the approved plans shall be permeable to surface water unless otherwise agreed in writing by the Local Planning Authority. If impermeable hard surfacing is proposed full details shall be submitted to and approved in writing by the Local Planning Authority including drainage details, prior to its installation.
6. The landscaping scheme shown on plan 2 - Plan 2 Site layout plan scale 1/200 (revised for proposed hedging specification) dated 9.3.2016 shall be implemented within a period of six months of the additional pitches being provided and brought into use. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.
7. All existing landscaping shown as being retained on the approved plans, including the hedge adjacent to Millfield Lane, shall be retained unless otherwise agreed in writing by the Local Planning Authority.

End of Schedule