



Appeal Decision

Site visit made on 6 January 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/P1425/C/19/3234381

Land at Downland Park, Court Farm Road, Newhaven BN9 9DJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Anne Barney against an enforcement notice issued by Lewes District Council.
 - The enforcement notice, numbered EN/19/0084, was issued on 27 June 2019.
 - The breach of planning control as alleged in the notice is the failure to comply with Condition 1 of planning permission LW/03/1867 by exceeding the number of caravans from 29 to 30.
 - The requirements of the notice are
 - (i) Permanently remove one of the caravans from the Land.
 - (ii) Remove from the Land all materials resulting from the removal of the caravan unit and restore the Land to its previous condition.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background and procedural matters

2. There is considerable planning history for the appeal site which is relevant to the matters under consideration. Downland Park comprises a caravan site, which originally formed part of the adjacent Newhaven Heights Park, before being separated. The original planning permission allowing residential occupation, was granted in 1985 (LW/86/391). This was subject to a number of conditions, including restricting the number of caravans to 28 and the provision of car parking. In November 2003 a further application was granted, that allowed the erection of a single new dwelling and the alteration of the turning point. This permission also increased the number of permitted caravans to 29.
3. Outline permission (LW/08/494) was then granted in 2008 for the removal of one mobile home and the erection of two dwellings and a garage and car port for each dwelling and two visitor spaces. These dwellings are known as 51 and 51A Court Farm Road. Reserved matters for appearance, design, scale and landscaping were approved under reference LW/11/0683. A later minor amendment to the parking (LW/14/0482), permitted one parking space per bungalow.

4. More recently planning application (LW/17/0206) was refused and dismissed on appeal (APP/P1424/W/17/3188583), for the erection of an additional mobile home on the redundant parking area and modification of condition 1 of LW/03/1867 to allow 30 caravans rather than 29. Another application to site one mobile home on the redundant parking area was refused in January 2019 (LW/18/0640). The Council declined to determine a third application submitted in June 2019 (LW 19/0448). My attention has been drawn to the location plan that accompanied this application and the covering letter. The location plan indicated that a mobile home (No 11) had been re-located to the parking area adjacent to Court Farm Road, and permission was being sought to move a thirtieth mobile home into the resultant gap towards the top of the site. I saw from my site visit that this additional mobile home is in place.
5. This appeal has been brought about by the issue of the above enforcement notice, alleging a breach of Condition 1 of planning permission LW/03/1867, by exceeding the number of caravans from 29 to 30. It seems to me, that it is the appellant's case under ground (a) that the re-siting of the existing mobile home (No 11) into the redundant parking area, does not require planning permission. On this basis, it is the replacement of No 11, that is the subject of this appeal, rather than siting an additional caravan into the parking area, as has previously been considered. The appellant argues that this represents a fall back position for the purposes of considering the merits of the development for increasing the number of caravans.
6. Whilst I recognise that the movement of mobile homes or caravans around a site may be possible. It is also possible that this ability may be fettered by the existence of planning conditions, for example those controlling site layout or parking. To consider whether there is a realistic fall back, the alternative must be identified sufficiently for comparison to be made. Furthermore, there must be a reasonable possibility that if planning permission were to be refused, the use of land or development which is permitted, would take place, and such use or development would be less desirable than that for which permission is sought.
7. In the circumstances of this appeal, the mobile home has already been relocated, with a replacement brought onto the site. I note that the Council suggested the submission of a Lawful Development Certificate (LDC) in an e-mail dated 16 November 2016. This was to establish whether an existing mobile home could be relocated into this area, without the need for planning permission. I note that this suggestion was not pursued by the appellant.
8. Consequently, I have no evidence about the lawful status of the car parking area, or whether there are any extant and controlling conditions to regulate its use. Furthermore, I note that permission LW/08/494, was granted subject to such conditions. Condition 6 specified *'That the development shall not be occupied until the parking has been provided in accordance with the approved plans or details submitted to and approved in writing by the Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles and cars'*.
9. From the evidence I have before me and in the absence of a CLD, I am unable to conclude whether the relocation of No 11 into this former parking area, would require planning permission or contravene this or indeed any other extant controlling conditions. I have not been provided with any evidence to

suggest that an additional mobile home could be successfully sited in an alternative location on the site. Nonetheless, the mobile home has already been sited in this position, so I have considered the appeal on this basis and on the evidence and facts before me.

Main issues

10. I have had regard to the reasons why the Council issued the notice. I therefore consider that the main issues are;

- The effect of the development on the character and appearance of the area; and
- The effect of the development on the living conditions of existing residents.

Reasons

Character and appearance

11. My attention has been drawn to the previous appeal decision, where the Inspector was considering an additional mobile home in the car parking area confirmed by the site location plan that accompanied that application. Given the lack of clarity with the appellants fall back position, the circumstances of this appeal are substantially the same. Consequently, the main consideration in this appeal is the relocated mobile home site in the former parking area adjacent to Court Farm Road.
12. The site is adjacent to Court Farm Road, which is a residential area with dwellings of various designs and density. A large mobile home park known as Newhaven Heights is adjacent to the appeal site. Both lie on gently rising land to the rear. I acknowledge that the scale and longevity of the two parks form part of the prevailing character of the area. Nonetheless, the space afforded by the lack of built development in this parking area would have provided important relief to the built frontage along the street, while allowing uninterrupted views into the site and beyond.
13. I share the concerns of the Council and the previous Inspector, that the siting of the mobile home into this former parking area, has resulted in the loss of this important gap, creating a continuous built frontage along this part of the road, which has significantly eroded the open and spacious nature of the site. The raised nature of the land at this point draws attention to the development adding to this sense of enclosure.
14. For the above reasons, I find that the siting of the mobile home in this location has caused significant harm to the character and appearance of the area. The development therefore conflicts with policy ST3 and CP11 of the Lewes District Local Plan (2003) (the LP) which seek to conserve and enhance the high quality and character, including views that make a contribution to the character of the area.

Living conditions

15. I saw from my site visit that the property at No 51A Court Farm Road, is separated from the side boundary by steps and a narrow pedestrian access to the rear garden. A substantial timber fence has been erected along part of this side boundary, on top of the brick boundary wall. This provides some screening

between the side elevation of the dwelling rear garden and the former car park. The introduction of a mobile home in close proximity to No 51A has undoubtedly introduced recreational activity into this area. However, this area was formally used as a car park and this means that there would have been noise and disturbance from the parking and manoeuvring of vehicles with the usual sound of voices and car doors shutting.

16. I recognise that the raised nature of mobile homes, may allow for overlooking from a higher vantage point, than would be possible from people using the car park. However, the forward siting of the mobile home in relation to the dwelling, and the existing fencing means that overlooking from the mobile home to the side elevation and the private rear amenity space is limited. I therefore find that the development does not result in an unacceptable loss of amenity to the occupiers of this property.
17. For the above reasons, I find that the development would not be harmful to the living conditions of the existing occupiers of No 51, in terms of any unacceptable overlooking. Accordingly, the development complies with saved policy ST3 of the LP. This policy aims to ensure that development respects the amenities of adjoining properties.

Conclusion

18. I note that the requirements of the enforcement notice are to permanently remove one of the caravan units from the Land. It therefore does not require the removal of any particular caravan. Given my findings above, I have considered whether it would be possible to vary the requirements of the notice to require removal of the caravan from the parking area. However, as this would enlarge the scope of the requirements, I do not consider that this could reasonably be done, without causing injustice to the appellant. It is open for the Council to consider their position in the event that the notice does not fully achieve its purpose.
19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Hilary Orr

INSPECTOR