



Appeal Decision

Site visit made on 17 December 2019

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2020

Appeal Ref: APP/A0665/W/19/3236015

Oakwood Farm, Parkgate Road, Saughall, Chester CH1 6EY

- 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 P Townsend against the decision of Cheshire West & Chester Council.
- The application Ref 19/00021/S73, dated 3 January 2019, was refused by notice dated 11 July 2019.
- The application sought planning permission for a touring caravan park with 5 pitches, camping area with 5 pitches and use of outbuilding as toilet and shower block, access alterations and installation of drainage system without complying with conditions attached to planning permission Ref 14/03187/FUL, dated 10 December 2014.
- The conditions in dispute are No's 2 and 4 which state that:
 - (ii) The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise stated: Design and Access Statement Addendum II; 14-138 Amendment A 13/11/2014 Location Plan and Block Plan, and 14-138a Works to outbuilding.
 - (iv) Camping on the site shall be limited to the 5 tented camping pitches and 5 touring caravan pitches hereby approved. Only one tent shall be erected on each camping pitch at any one time. The 10 pitches hereby approved shall be for short-term caravan and camping only. The occupation of the tent pitches and touring caravans shall be limited to occupation by persons for recreation purposes only and shall only be let to the same person or persons under an individual letting, or series of lettings, for a period not exceeding 28 days continuously or for more than 6 weeks within any one calendar year. Caravans, tents and associated equipment shall be removed from any pitch which is at any time not let. Details of all persons to whom each pitch and touring caravan pitch is let for the preceding four years shall be recorded in a formal log book and retained by the owner. The log book shall be made available to the local planning authority within 7 working days on written request.
- The reasons given for the conditions are:
 - (ii) For the avoidance of doubt and in the interests of proper planning.
 - (iv) In order to prevent the camping pitches and touring caravan pitches from being put to residential use and to preserve the openness of the Green Belt and the character of the rural area, in accordance with Policies HO7, ENV24 and ENV63 of the Chester District Local Plan.

Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my site visit, I saw that the development of the additional touring caravan / tent pitches and associated infrastructure had commenced and was substantially complete. I also note that the application has been

submitted retrospectively. Accordingly, I have dealt with the appeal on that basis.

3. A Section 73 application allows for minor material amendments (MMAs), where there is a relevant condition that can be varied, in this case the plans condition. Whilst there is no statutory definition of a 'minor material amendment' it includes any amendment where the changes result in a development which is not substantially different from the one which has been approved. The changes shown exceed those envisaged by the Planning Policy Guidance (PPG) as MMAs, and in my judgement would have been more appropriately handled via a fresh planning application. Nonetheless, the Council considered the proposal as a variation under Section 73 and I will deal with it on that basis.
4. Since the Council made its decision on the planning application, which is subject of this appeal, the Council's Local Plan Part Two (LP2) was adopted in July 2019. Consequently, the Chester District Local Plan policy referred to in the Council's decision, EC18 is no longer in force. The Council has provided a copy of LP2 Policy DM9 with its submission. I will therefore not prejudice any party in taking this policy into consideration in the determination of this appeal. This appeal has therefore been determined in relation to the policies contained within the Council's Local Plan Part One 2015 (LP1) and LP2.

Main Issues

5. The main issues on this appeal are:
 - whether the development is inappropriate development in the Green Belt;
 - the effect of the development on the openness and purposes of the Green Belt;
 - the effect of the development on the character and appearance of the appeal site and surrounding countryside; and,
 - if the proposal is inappropriate development whether the resulting harm, and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Background

6. A camping site for touring caravans and tents has been established for a number of years since the approval of the planning application¹ (the original application) on 10 December 2014, which this appeal scheme is seeking to vary. Since the approval of the original application a further planning application² (the previous appeal scheme) was submitted and refused on 25 February 2016, then dismissed at appeal³ on 20 October 2016. The previous appeal scheme proposed to a touring caravan park with 10no. pitches, camping area with 5no. pitches, part conversion of building to form toilet and shower block, access alterations and installation of drainage system.

¹ 14/03187/FUL

² 15/04944/FUL

³ APP/A0665/W/16/3152313

7. The original application granted permission for a touring caravan park with 5no. pitches, camping area with 5no. pitches and use of outbuilding as toilet and shower block, access alterations and installation of drainage system. The approval of this application was subject to numerous conditions, including references to the approved plans and limitations on the number of pitches and the duration of stay allowed, which are now being sought to be varied through this appeal.
8. The changes on the scheme before me primarily involve the alteration to the approved plans through the increase in the number of touring caravan and tent pitches within the site from 5no. to 18no. and 5no. to 6no. respectively. The touring caravan pitches are generally sited around the perimeter of the site, located off an oval access track providing comprising dark loose stone chippings. The 6no. tent pitches are located centrally in the site on an area of grass within the oval access track.

Whether inappropriate development in the Green Belt

9. The appeal site currently forms an irregular parcel of land that is located adjacent to a complex of buildings which accommodate a variety of uses, such as the site office, pet shop, tea rooms and café, amongst other things. The site is in an area which is washed over by the Green Belt, and in close proximity to the junction of the A540 and A5117, where access can also be easily taken to the A494 bypass. Access to the site is taken initially from the existing access on Parkgate Road, which then requires a route through the premises to the access track to the rear of the site.
10. I note the dispute between the main parties regarding whether or not the development can be considered as outdoor recreation, and thus compliance with one of the exceptions listed at paragraph 145 b) of the National Planning Policy Framework (the Framework). My attention has been drawn to the explanation at 6.28 of LP1 Policy ECON3 which seeks to clarify that camping and caravan sites are considered as tourism development not outdoor recreation. In this regard, the appellant has provided a copy of a Judgment⁴ to support his submission.
11. However, this judgment surrounds a 'saved' policy, which is significantly different to LP1 Policy ECON3 that is not subject of any such saving direction. Section 38(6) of the Planning Compulsory Purchase Act 2004, as amended, indicates that proposals should be made in accordance with the development plan unless material considerations indicate otherwise. Accordingly, I find little within this judgment that would lead me to not determine this appeal in accordance with the development plan.
12. The hard standing for the touring caravan pitches and access comprises operational development within the meaning of Section 55 of the Town and Country Planning Act 1990 and does not fall within one of the exceptions within paragraph 145 of the Framework. Thus, it must be considered as inappropriate development in the Green Belt. Although, I do accept that the change of use of the site has commenced, since the previous Inspector's Decision. Consequently, I do not consider that the development further encroaches into

⁴ The Queen on the application of Cherkley Campaign Limited and Mole Valley District Council and Longshot Cherkley Court Limited [2014] EWCA Civ 567

the countryside as it is contained within the existing site. Nevertheless, it does intensify the level of development on the site.

13. Having regard to the above, I conclude that the proposed development is inappropriate development in the Green Belt, and in this regard, it would conflict with LP1 Policy STRAT9 and the Framework.

Openness and Green Belt Purposes

14. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework.
15. Changes to land through development can potentially have a greater impact on openness of the Green Belt. It is important to consider the impact or harm, if any, brought by the change. Whether or not the change would have an adverse impact, and so cause harm to openness, might depend on factors such as the scale of the development, its locational context, and its spatial and / or visual implications.
16. Having carefully considered the current characteristics of the site and its surroundings, I was able to see that the appeal site is not very visible from longer distance views due to the screening of the site with hedgerows and fencing. I acknowledge that this screening has reduced the visual impact of the development, but still I find the development is nonetheless visible particularly from more localised viewpoints including Bypass Road that runs alongside and to the rear of the site, with glimpses of the site, also possible from Parkgate Road travelling in the direction away from the road junction.
17. The touring caravan and tent pitches facilitates the parking of caravans, motorhomes and tents, whilst not constituting an act of development in itself, it adds to the loss of openness on an intermittent basis when the touring caravan and tent pitches are in use. This could result in a physical mass and bulk of up to 18no. touring caravans and 6no. tents together with any ancillary equipment and vehicles. This would have a materially greater impact on the openness of the Green Belt than that approved under the original application. Additionally, whilst it is likely that there would be increased demand during the summer months, it is still possible for the site to be used during other times of the year, as was evident on my site visit with the occupation of 3no. touring caravan pitches. However, I do acknowledge that tent pitches are only available between March to October annually.
18. Overall, and for the reasons given above, I conclude that the appeal proposal fails to preserve the openness of the Green Belt. Therefore, I afford such Green Belt harm substantial weight in my assessment and determination of this appeal. In this regard, it would conflict with the requirements of the Framework.

Character and appearance

19. The appeal site is located within open countryside as defined in LP1. LP1 Policy STRAT9 lists the types of development that should be permitted in the countryside, which does not include the development subject of this appeal. However, I acknowledge that touring caravan / camping facilities are not uncommon in rural locations.

20. The development would generally be set behind hedgerows and fencing. There are a variety of differing positions and styles forming the adjacent buildings that overall are agricultural in appearance. I find that the development suitably complements the other adjacent development in the wider site, in terms of its design, scale, siting and materials.
21. The site is visible from public vantage points, in particular from Bypass Road. However, I acknowledge that this would likely be reduced at other times of the year due to seasonal growth of the hedgerow. In the context of the surrounding development, the touring caravan and tent pitches would not appear materially out of place. I consider that the development results in an increase in the scale of development at the site, but taking into account the position of the appeal site, land levels, the relatively close relationship with nearby buildings and the surrounding hedgerows and fencing, I find that there are some mitigating factors present to prevent a significant level of harm to the appeal site and surrounding countryside.
22. Nevertheless, the site still has a visual connection with the surrounding open countryside, especially the agricultural fields on the opposite side of Bypass Road. Therefore, I consider that the amount of development that has occurred on the site and the potential number of touring caravans and tents that could be attracted directly as a consequence is a notable intensification of the site, resulting in moderate harm.
23. For the reasons given above, I conclude that the development creates moderate harm to the character and appearance of the appeal site and surrounding countryside. The development therefore fails to accord with the design, character and appearance aims of LP1 Policies STRAT1, STRAT9, ENV2, ECON3, LP2 Policy DM9 and the Framework.

Other considerations

24. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Therefore, substantial weight should be given to the harm to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
25. I have concluded that the proposal would be inappropriate development and would have an adverse effect on openness. It would therefore, by definition, be harmful to the Green Belt. The Appellant has not specifically put forward other considerations which would amount to very special circumstances to justify why planning permission should be granted in his Appeal Statement but does so in his Planning Statement that accompanied the application. These amount to previous history of the site being used as a depot for the construction of the roads, the same use in the site boundary as the approved scheme, the implemented permission, the transport connections in proximity to the site and the existing condition being too restrictive.
26. Additionally, I note the projected increase in campsite bookings from the appellant for the coming year when compared to the previous year and the assertion that this is evidence of an unmet need. Furthermore, I note the appellant's comments regarding the extent of the North Cheshire Green Belt in

which the site is located and that no other site in the locality is possible without it being in the Green Belt, and that the main tourist route is through the Green Belt, which also includes main attractions, such as Chester Zoo. However, on the evidence before me, I am not satisfied that a tourist development, such as the appeal scheme, could not be located on land outside of the Green Belt. Consequently, I find that there no substantive evidence to support the notion of a need for additional touring caravan and camping facilities in the area.

27. My attention has been drawn to 2no. developments approved by the Council at Chester Zoo for 28no. lodges and 14no. tents, and at Woodside Farm which was originally granted planning permission⁵ for 10no. touring caravan pitches, that was subsequently increased to 14no. through the approval a variation of condition application⁶. However, relatively little detail has been provided regarding the particular planning backgrounds to these schemes. Without such information a full and detailed comparison between these schemes and the case before me cannot be drawn. Although I note that both schemes are located within the Green Belt and are for tourist development in the same Council area, I still cannot be certain that the circumstances in these applications are entirely representative of the site in the appeal before me.
28. I note that the site benefits from a Site License⁷ (the license) which relates to the original permission for 5no. touring caravan pitches and 5no. tent pitches. Additionally, I note reference towards the provisions of Schedule 2, Part 5, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), but I find little within the license and GPDO that would lead me to alter my conclusion on the main issues in this instance.
29. In considering the substantial weight given to the identified harm to Green Belt, the considerations outlined above do not clearly outweigh such harm to the Green Belt. Therefore, the very special circumstances necessary to justify the development do not exist and the development would therefore conflict with the Framework and LP1 Policy STRAT9.

Planning Balance and Conclusion

30. The development amounts to inappropriate development in the Green Belt and significant harm is caused to openness. This is a matter to which I afford substantial weight. Additionally, the development has a moderate harmful effect on the character and appearance of the appeal site and surrounding countryside. Whilst the development leads to some social and economic benefits through the provision of additional tourist facilities, this is relatively limited in extent, and would not significantly and demonstrably outweigh the clear and substantial harm that is caused to the Green Belt.
31. Taking all relevant matters into account, on balance I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

⁵ 10/11161/COU

⁶ 13/01007/S73

⁷ License Number 16/00034/CARS dated 6 February 2018