



Appeal Decision

Hearing Held on 17 December 2019

Site visit made on 17 December 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2020

Appeal Ref: APP/W3520/W/18/3215925

Grange Farm Lodge, Potash Lane, Wyverstone IP14 4SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G Warner against the decision of Mid Suffolk District Council.
 - The application Ref DC/18/01006, dated 7 March 2018, was refused by notice dated 24 July 2018.
 - The development proposed is described as the use of land for the stationing of caravan for residential purposes for touring caravan site manager.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Shortly before the hearing the appellant submitted their position on the Council's current supply of housing sites. Whilst I shall investigate the ramifications thereof as part of the Council's application for costs, it was resolved that the Council needed sufficient time to be able to respond to the submission. At the hearing, both the appellant and the Council agreed the most appropriate use of time in this regard was to deal with the matter through an exchange of correspondence. The Council advised that they would require external assistance on the matter and given how close the hearing was to the festive period, their response was expected mid January 2020. The appellant has then been given an opportunity to make final comment on the Council's response. I have taken the position of both main parties into account in my consideration of the case.

Application for costs

3. At the Hearing an application for costs was made by Mid Suffolk District Council against Mr G Warner. This application is the subject of a separate decision.

Main Issue

4. The main issue is whether the appeal site is an appropriate location for the proposed development having regard to the requirements of the development plan, the Framework¹ and the particular circumstances of the case.

¹ The National Planning Policy Framework 2019

Reasons

5. The appeal scheme seeks planning permission to use land for the stationing of a caravan for the manager of a certified touring caravan site which operates on an adjacent field. There is an existing mobile home structure on the appeal site which currently houses the appellant, (who manages the touring caravan site) his wife, their adult son, his partner and their three children. It is the sole residence for all seven occupants but only the appellant is employed by the business. I shall return to these matters later.
6. The appeal site is in the countryside, a distance to the north of Wyverstone, a small village of mainly frontage dwellings arranged around main roads. Development is sporadic and clustered in places. Paragraph 79 of the Framework states that planning policies and decisions should avoid the development of isolated homes in the countryside. I am inclined to agree with the appellant that, for the purposes of the Framework, the home in this case would not be an isolated one by virtue of its proximity to others. However, I am mindful of the fact that, being in the countryside, the appeal scheme would represent the establishment of a dwelling in a location where, for reasons of encouraging sustainable patterns of development, it would not under normal circumstances be allowed under the terms of the development plan or the Framework.
7. Specifically, this is set out by Policies CS1 and CS2 of the Core Strategy² which, amongst other things, direct new development to the districts larger settlements in a hierarchical manner and restrict development in the countryside to certain types. In addition, saved Policy H11 of the Local Plan³ indicates that residential caravans will be considered in the same way as permanent dwellings. The Framework is clear, at paragraph 103, that the planning system should actively manage patterns of growth in support of the objectives set out in paragraph 102. These include that opportunities to promote walking, cycling and public transport use are identified and pursued.
8. As a small settlement, Wyverstone has some small businesses but otherwise a very limited range of services available to residents. There is a village hall, playground and recycling facilities and a local public rights of way network. However, shops, education, healthcare and employment opportunities are some distance away. The closest larger settlement is Bacton which has a broader range of services. There was discussion at the hearing as to there being some public transport options available but it did not appear such was either readily accessible to the appeal site or indeed sufficiently frequent to be able to rely on as a reasonable alternative to the use of the private car (the least sustainable travel option).
9. I agree that the appeal site, being close to other dwellings and operating as a touring caravan business, is already a destination in its own right and as a single dwelling on the land any journeys to and from it to access services would be limited. It is also correct that if the appellant did not live at the appeal site then commuting to it to work would give rise to an environmental burden that living there would eliminate. Nevertheless, in establishing a dwelling at the appeal site, the future occupiers would be reliant on the use of the private car to meet their day to day needs. Accordingly, I consider that the appeal

² Mid Suffolk Local Development Framework Core Strategy Development Plan Document 2008

³ Mid Suffolk Local Plan 1998

scheme would fail to promote sustainable transport and would only serve to encourage unsustainable patterns of new development.

10. Taking all these factors into account, I therefore conclude on the main issue that the appeal site would not be an appropriate location for the proposed development having regard to the requirements of the development plan and the Framework.
11. Thus, the appeal scheme would be contrary to the aims of the Core Strategy, specifically Policies CS1 and CS2 and saved Local Plan Policy H11. There would also be conflict with Policies FC1 and FC1.1 of the Core Strategy Focussed Review⁴. As set out above, between them and amongst other things these policies seek to encourage sustainable patterns of new development, set out circumstances where residential caravans might be appropriate and that proposals can be approved where they may secure development that improves environmental conditions in the area and meet the objectives of the Core Strategy.
12. The appellant raises a number of concerns about the consistency of these policies with the Framework. As I have said, Policies CS1 and CS2 advocate the promotion of sustainable patterns of development. They do so by directing it in a hierarchical manner to those areas that have good access to services. This approach is shared by one of the core aims of the Framework in reducing the need to travel and encouraging/maximising the use of sustainable transport modes. I do not consider therefore that the approaches of CS1 and CS2 are inconsistent with the Framework and thus out of date for its purposes.
13. I note paragraph 78 of the Framework which explains, amongst other things, that where there are groups of smaller settlements, development in one village may support the services in a village nearby. Whilst there are component parts to Wyverstone I have seen limited evidence to suggest Wyverstone itself has anything to offer as part of a cohesive group or necessarily how development in Wyverstone (bearing in mind it is only a single dwelling in this case) would necessarily support services in other villages as a group. I note that this provision in paragraph 78 is not picked up by the approach of CS1 or CS2 but that is not sufficient to render them out of date.
14. Saved Policy H11 of the Local Plan sets out that planning permission will not normally be granted for residential caravans or mobile homes on sites which would not receive planning permission for permanent residential development. It further states there will be strict controls over new residential caravans in the countryside. The appellant states that saved Policy H11 only considers temporary planning permissions being granted therefore and that the Framework does not discriminate against residential caravans. The stark difference, according to the appellant, in the two approaches means that this policy would be out of date.
15. I disagree. The wording of saved Policy H11 is clear of the circumstances the Council will consider residential caravans in. That is to say the same way they would a permanent dwelling. Furthermore, it does not rule out the possibility of one being granted on a permanent basis by saying that they would not normally be granted (my emphasis). The second part of the policy then talks of a particular instance where such a permission may be granted and the fact that

⁴ Mid Suffolk Local Development Framework Core Strategy Focussed Review 2012

it would be temporary, ultimately to allow a permanent solution to be sought in the longer term should a dwelling be acceptable under other development plan policies. The objectives of saved Policy H11 in treating residential caravans in the same way as dwellings, reflects the aims of the Framework to promote sustainable patterns of development. I do not therefore consider saved Policy H11 to be out of date.

16. Policies FC1 and FC1.1 of the Core Strategy Focussed Review set out the presumption in favour of sustainable development (as it was set out by the 2012 iteration of the Framework) and what the Council's approach to delivering such was respectively, in broad and wide encompassing terms. They are referred to in the Council's reasons for refusal. The appellant points out that the wording of Policy FC1 no longer reflects in exact terms that of the 2019 iteration of the Framework, which is correct. There have also been judgements since the 2012 iteration which have provided clarification on how a decision about what might be sustainable development should be approached.
17. That said, the presumption in favour of sustainable development is carried forward in the wording of the 2019 Framework and whilst what it might constitute and how a decision thereon might be approached has been a matter for the courts, the commitment to achieving it remains and the scope of Policy FC1.1 is sufficiently wide in my view for it to not be overly narrow on what might be considered sustainable development for the Council's purposes. For these reasons I am not minded to conclude that Policies FC1 or FC1.1 are out of date

Other Considerations

18. The appellant has provided a number of other considerations to support the proposal.
19. The appeal scheme has been, at least in part, advanced on the basis of the there being a need for an employee of a rural business to live on site. The touring caravan site to which the dwelling is intended to relate does not benefit from express planning permission. It is certified and limited to five units at any one time. There is a small amenity block on the site which requires maintenance and it operates all year round. The appellant has explained that they need to be on site to allow patrons access/egress as well as maintain the site. From a security perspective, a dwelling close by can offer natural surveillance and some comfort for patrons leaving caravans and other valuables at the site. As well as assistance to patrons more generally, reference is also made to an incident with an elderly patron who fell from a motorhome when the appellant was on site and able to assist and acquire medical assistance.
20. However, being a small site, it seems to me that maintenance obligations are limited. The use of the site for touring caravans means it would reasonably entail tending to electricity and water connections and the aforementioned amenity block which are small elements in themselves and not great in number.
21. The appellant confirmed that the site is gated and thus relatively secure. In practical terms, there is only one way in and out for vehicles from Potash Lane. Whilst there appears to be a secondary access from an unmade track to the south, this is also gated and does not have hard surfacing. In my view, if

patrons had booked in advanced someone could be at the site to let them in, or if they arrived unannounced then contact details at the entrance could be provided. This could also be a workable solution to offer more general assistance with pitching and manoeuvring.

22. I agree that a residential presence could deter would be vandals or thieves but then so could existing dwellings close by or indeed other methods of security and surveillance. I am also mindful that vehicles themselves can be securely immobilised to prevent theft. I empathise with the situation regarding the elderly patron but this seems to be a rare and isolated incident and whilst it was helpful that the appellant was able to assist, I do not consider it sufficient in itself to demonstrate that there is a need for a dwelling. All told, it seems to me that a dwelling being on site would be desirable, as opposed to essential. Thus, whilst it is a benefit of the proposal, I attribute this matter only limited weight.
23. The appellant has explained that they generate a modest income from the business and that local housing is out of their affordability range. Some examples have been provided. The examples are however limited in their scope and little consideration appears to have been given to the rental market. There is limited evidence to also suggest that, in the longer term, there is necessarily a pressing need for all seven members of the family to reside together.
24. There is some evidence of another member of the family having applied for local authority accommodation (the appellant's daughter) but no evidence pertaining to enquires made by the current occupants of the mobile home on the site. I note there are issues of limited income for the appellant's son and his family in that he cannot work for medical reasons. I empathise with this situation however, there is little evidence that this arm of the family has pursued alternative accommodation or discussed such needs and affordability with the local authority or any housing association. I am also unclear as to whether or not the appellant's son's partner is able to work. I therefore attach limited weight to these matters.
25. The evidence suggests that the land on which the existing mobile home structure is located has been in the ownership of the appellant's family for over 150 years, most of his working life having been spent there. Most recently operating the touring caravan site. I understand that the existing mobile home structure has been on the appeal site for some time (in the region of 17 years according to the appellant's written statement). I do not however have an appeal or application for a certificate of lawful development before me. The appeal under my consideration at this time is based on the merits of the case in planning terms. Therefore, these matters add no weight in favour of the appeal scheme.
26. I note that Policy CS1 explains, in regard to the rest of the district including non-listed settlements and the countryside, that development will be restricted to support the rural economy amongst other things. I have no doubt that the current business that operates at the appeal site generates an income and thus, on that basis, supports the rural economy. However, it is nonetheless the business that does so and not the provision of a dwelling which is the subject of this appeal. As I have also set out, I am not convinced by the arguments in favour of a dwelling on the basis of the business needing it. Nor

have I have seen anything substantial to suggest that the business would cease in the absence of the appeal proposal. As such, this factor adds no weight in favour of the proposal.

27. I note the appeal scheme would be in relatively close proximity to Grange Farm which is grade II listed. However, by virtue of the proposed development's immediate surroundings, its relatively secreted positioning, design, nature and degree of detachment from Grange Farm I share the conclusions of both main parties that neither its significance nor setting would be adversely affected. As a lack of harm in this case, it cannot by definition be used to weigh against it.

Planning Balance and Conclusions

28. I have found that the appeal scheme would give rise to harm in the manner I have explained in relation to the main issue and in terms of achieving sustainable patterns of development. This would accordingly result in conflict with the development plan and the Framework. I ascribe this harm and conflict substantial weight.
29. There is considerable evidence from both main parties regarding whether the Council can demonstrate the supply of housing sites required by the Framework and it is an area where there remains disagreement. The Council explain in detail the methods used to calculate housing land supply and why their approach is appropriate in regard to their published position statement. The appellant questions the relevance of the timing of the Council's current published position relative to actual supply as well as the inherent problem associated with forecasting and whether the Council's published position covers an actual five year period. In the case of each main party, their arguments support a conclusion that the Council can either demonstrate a supply of just over or just under the five years required.
30. In this context, I am mindful that the appeal scheme would provide only a single dwelling which would make a limited difference to any undersupply if there is one. Nevertheless, the provision of a home and its associated effects are benefits of the proposal which count in its favour, albeit that they attract only minimal weight again given the scale of the scheme. As set out above, I have also found that the benefits of the proposal to the appellant and their family and business of providing on-site accommodation add some limited weight in favour of the proposal. Additionally, the potential lack of alternative accommodation for the appellant and their family adds some further albeit also limited weight in its favour.
31. I have given some thought to the appellant's arguments regarding the granting of either temporary or personal planning permissions. Planning Practice Guidance (PPG) sets out circumstances where a temporary permission may be appropriate and includes where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. I do not feel this situation applies to the case before me since the appellant already occupies the site and has done for some time. PPG is clear that where there is no clear timetable, or reasonable expectation of change in circumstances within a definite and foreseeable period, a temporary planning permission is unlikely to be appropriate. It has not been put to me that any particular change in circumstances is likely.

32. At the hearing, there was also discussion about whether a personal planning permission would be appropriate. In this case, PPG states that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need. Referring to my earlier findings on need in this case, I do not find that a personal planning permission would be appropriate or meet the tests of PPG. Thus, I confirm that neither a temporary nor a personal permission is justified.
33. The existing mobile home structure on the appeal site houses seven occupants. It is their sole residence. If the appeal were to be dismissed the occupants would have to seek alternative accommodation.
34. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, and am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. However, I am mindful that the appellant's individual rights for respect for private and family life (along with the best interests of the children) must be weighed against other factors including the wider public interest and legitimate interests of other individuals.
35. The negative impacts of dismissing the appeal on the appellant and their family arise since they would lose the appeal site and would have to find alternative accommodation. This would interfere with the best interests of the children and each member of the family's right for respect for private and family life and lends additional weight in favour of the appeal. However, I have found that the proposal would be harmful to achieving sustainable patterns of development and am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to promote sustainable patterns of development in the wider public interest, can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on the appellant and his family are necessary and proportionate.
36. Bringing matters together, with the scope and extent of the benefits that the appeal scheme would provide in mind (including taking into account the family's Article 8 rights), and placing them alongside the harm I have identified in relation to the main issue, even in the event that the policies which are most important for determining the application were out-of-date under the terms of the Framework, I conclude in this particular case that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

37. I note the representations made by third parties, but it is for the reasons I have set out above that the appeal is dismissed.

John Morrison

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mrs Heather Billing-Warner

Mr Leon Bridges

Mr Matthew Green

Mr G Warner

Mr H Warner

FOR THE LOCAL PLANNING AUTHORITY

Mr John Pateman-Gee

Mr Alex Scott

DOCUMENTS SUBMITTED

- Signed Statement of Common Ground
- Updated Personal Statement of Mr G Warner
- Reviews of touring caravan site from Pitchup.com