



Appeal Decision

Site visit made on 11 February 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2020

Appeal Ref: APP/P2935/W/19/3240486

Heathergate Country Park, Lowgate, Hexham NE46 2NN

- 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 Blue Sky Resorts Ltd against the decision of Northumberland County Council.
 - The application Ref 19/01170/VARYCO, dated 5 April 2019, was refused by notice dated 14 August 2019.
 - The application sought planning permission for Variation of condition 2 (habitation period) of application 18/01745/VARYCO to allow 12 month habitation period (amended description) without complying with conditions attached to planning permission Ref 18/01745/VARYCO, dated 14 August 2018.
 - The condition in dispute is No 2 which states that: The site shall not be used as a caravan site for the purpose of human habitation between 1 February and the 28 or 29 February inclusive in any year. The caravan pitches subject to this permission shall be occupied for holiday purposes only and no unit shall be occupied as a person(s) sole or main place of residence. In this regard the site operator shall maintain an up-to-date register of all occupiers and the dates on which they have occupied a unit during the calendar year to which that register relates and this register shall be available for inspection by an authorised officer of the Council at all reasonable times.
 - The reason given for the condition is: The development is such that it could not be approved for permanent development having regard to Policy TM15 of the Tynedale District Local Plan.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. At the application stage, the Council corrected the applicant in that they had submitted a section 73 application to vary a condition from application 16/04092/VARYCO when the condition in question related to application 18/01745/VARYCO.
3. An application at the same site to extend the occupation of the caravans on the site from 11 months per year to 12 months per year at the 42 caravan pitch was refused under planning application 19/01171/VARYCO. The proposal was made by the same appellant and

is considered under separate cover of appeal reference APP/P2935/W/19/3240489.

Main Issues

4. The main issues are:

- Whether the proposed variation to the disputed condition would result in permanent occupation of the caravans; and
- The effect of the proposed variation on the living conditions of local residents.

Background

5. The appeal site is a caravan park at Lowgate, close to Hexham, and relates in particular the extension to the west of the main site for a 39 caravan pitch, originally approved under application 82/E/559. The site is accessed via a narrow lane between houses that opens up to a main reception building with static caravans located largely in a semi-circle around the site. The appeal site is located within the Green Belt and open countryside. The caravans are individually owned and have been domesticated with verandas, outdoor furniture and garden paraphernalia.
6. The Heathergate Country Park site has been granted planning permission since 1974 under application J74/32. At the time of granting permission, the principle of the proposal for static caravans was considered to be acceptable development as holiday accommodation subject to a condition restricting the static caravans occupancy during a specific timeframe annually (between 1st March and 31st October) because the caravans were considered to be inappropriate development as a main, or only residence.
7. Since the original application was approved, the National Planning Policy Framework (the Framework) has been published. The Framework explains that the Green Belt has five purposes and should be protected from inappropriate development. Inappropriate development within the Green Belt is by definition, harmful to the openness of the Green Belt, although exceptions apply.
8. Condition 2 of planning application 18/01745/VARYCO was approved to vary the time limit to a previously varied planning permission to the original application, allowing an 11 month of the year occupancy of the caravans, with non-occupation '*during the period of four consecutive weeks from 1st February each year*'. There is no restriction on how frequently people can occupy the caravans during this 11-month availability, or a given period of time they are allowed to occupy the caravans at any one time.
9. This appeal seeks to vary condition 2 to allow a 12 month, all-year round occupancy to allow the caravan owners freedom to use their caravan at any time of the year.

Reasons

Occupancy of the caravans

10. The static caravans are inappropriate development for permanent habitation and this has been accepted by both parties. The appellant suggests a means to prevent the caravans from becoming sole or main residences is by the site operator keeping a register of names and dates of occupation for each caravan, to be made available for Council inspection. To their reasoning, this would demonstrate that the caravans are not occupied by individuals on a permanent basis or as their sole residence.
11. When considering the implications of varying condition 2, I have had regard to paragraph 55 of the National Planning Policy Framework (the Framework). This explains that conditions should only be applied to permissions where they meet the 6 tests of the Framework. The use of conditions is intended to mitigate the impact of development and in this respect an original condition was imposed to allow occupation for a limited number of months. Also, of relevance to this decision is the advice contained within the Planning Practice Guidance (PPG); the use of conditions. The PPG emphasise that clear and precise reasons must be given for the imposition of every condition.
12. I have considered the wording proposed by the appellants to vary condition 2 and do not find the proposed wording would meet the tests of the Framework as it is neither precise or enforceable to adequately resist the occupation of the caravans as a sole residence.
13. There are no mechanisms built into the proposed amended condition to explain how the register would precisely operate or an explanation of what evidence is required to demonstrate that the static caravans would not be used as the owner's sole residence. The suggested wording would not allow the Council to enforce against the caravan occupation if it became known that they were occupied as a sole or main residence. The suggested wording would not be precise enough to enforce against.
14. Currently, the only protection afforded to prevent occupation of the caravans on a 12 month all-year-round basis, as a sole residence, is controlled by the existing wording of condition 2. By allowing the rewording of condition 2 as proposed would change the nature of the site as its intended use as a second home for holiday purposes. This would undermine the original permission for the caravans to be used as holiday accommodation only, as they are inappropriate development for permanent accommodation in this Green Belt and open countryside location.
15. Furthermore, neither has a legal agreement been proposed as part of this appeal to provide assurance that a legally binding mechanism is in place to prevent occupation of the caravans on a sole or main place of residence should owners be allowed to access their caravans over a 12 month period.
16. Therefore, I consider the proposed variation of condition 2 would not accord with saved policy TM15 of the Tynedale District Local Plan 2007 (TDLP) that seeks to grant permission subject to the imposition of conditions and/or the seeking of a planning obligation to ensure that the property is not used as a full-time residence. The proposal would be contrary to the Framework that

seeks to protect the Green Belt from inappropriate development that would arise as a result of varying condition 2 as proposed.

Living Conditions

17. In respect of disturbance to local residents, the site is well established given its original permission granted some time ago, and local residents will already be familiar with the comings and goings associated with the site during 11 months of the year. I would expect that if local residents are already exposed to noise, traffic and light pollution, this occurs during the majority of the year. There is no evidence before me to suggest that this has reached unacceptable levels and I do not consider the proposed amended condition would be in conflict with the relevant part of saved Policy GD2 of the TDLP that seeks development to ensure no adverse effect occurs to adjacent land or buildings. I also do not find in conflict with the Framework, in particular Paragraph 127 that seeks new development to achieve a high standard of amenity for future and existing users.

Other Matters

18. Other caravan sites brought to my attention may not restrict the period of occupancy, however, I am not aware of their particular circumstances and have considered this appeal on its own individual merits.
19. The appellant refers to other policies within the TDLP and the emerging Northumberland Local Plan stating that these are relevant to the appeal as the proposal would, amongst other things, enhance existing facilities for tourism and bring benefits to the local economy. However, whilst there may be benefits as a result of the proposal, I return to the fundamental principle of the site located within the Green Belt, and its original permission was granted as holiday accommodation only, that is not suitable for permanent habitation as a sole residence for the caravan owners.
20. I have had regard to the increased availability allowing owners greater flexibility to use their caravan, however I am not persuaded to come to an alternative decision. Also, I have noted all other letters of support, however, this does not outweigh the harm I have identified.

Conclusion

21. I have found in favour of the appeal in respect of an all year round occupation insofar as I do not consider it would have an adverse effect on the living conditions of the neighbours. However, the variation of condition 2 as proposed would lead to development in conflict with Council policy on caravan occupancy and the Framework in terms of Green Belt, and therefore the appeal should be dismissed.

Alison Scott

INSPECTOR