



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/19/3240489

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 19/01171/VARYCO, dated 5 April 2019, was refused by notice dated 14 August 2019.
 - The application sought planning permission to Vary condition No. 2 of Planning Permission Reference: J74/32 to extend the opening times to 11 months (1st March to 31st January) Heathergate Country Park Lowgate Hexham Northumberland NE46 2NN, without complying with condition 2 attached to planning permission Ref T/20050948, dated 26 September 2005.
 - The condition in dispute is No 2 which state that: This permission relates to the provision of holiday accommodation and shall not be used as a main or only residence. For the purposes of this condition, holiday accommodation is accommodation which shall not be used for human habitation during the period of four consecutive weeks from 1st February each year, or such other consecutive time period of four weeks as may be agreed in writing by the Local Planning Authority. In order to facilitate the policing/enforcement of the foregoing, the site operators shall provide written confirmation before 31st March annually that the provisions of this condition have been adhered to.
 - The reason given for the condition is :To ensure that the property is used for holiday accommodation only and to prevent permanent residential use in a location where such development would be inappropriate, in accordance with national policy guidance relating to the creation of new dwellings in the open countryside.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. 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 39 caravan pitch extension was refused under planning application 19/01170/VARYCO. The proposal was made by the same appellant and is considered under separate cover of appeal reference APP/P2935/W/19/3240486.

Main Issues

3. 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

4. The appeal site is a 42-pitch caravan park at Lowgate, close to Hexham. 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.
5. Heathergate Country Park 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 allowing the static caravans occupation during a specific timeframe annually (1st March to 31st October) because the caravans were considered to be inappropriate development as a main, or only residence.
6. Since the original application was approved including the subsequent variation application to the original permission¹, 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.
7. Condition 2 of planning application T/20050948 was approved to vary the time limit to the original planning permission to allow 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.
8. 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.

¹ T/20050948

Reasons

Occupancy of the caravans

9. 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.
10. 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. 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.
11. I have considered the wording proposed by the appellants to vary condition 2 and do not find it would meet the tests of the Framework as the proposed wording is neither precise or enforceable to adequately resist the occupation of the caravans as a sole or main residence.
12. 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.
13. Currently, the only protection afforded to prevent occupation of the caravans on a 12 month all-year-round basis, 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. It would undermine the approved application T/20050948 and 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.
14. 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 access to their caravans over a 12-month period.
15. 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

16. 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

17. 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.
18. 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.
19. I have had regard to all other objections raised to the proposal but as I do not find in favour of the proposal, no further comment is required.

Conclusion

20. 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