
Appeal Decision

Site visit made on 9 November 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 02 December 2020

Appeal Ref: APP/L3815/W/20/3257259

Thornham Products, Thornham Lane, Southbourne PO10 8DD

- 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 & Mrs T McDermott against the decision of Chichester District Council.
 - The application Ref SB/19/02691/FUL, dated 23 October 2019, was refused by notice dated 25 February 2020.
 - The application sought planning permission for retrospective grant of planning permission to station existing single mobile home on the land and to continue to use it for the applicants' place of residence without complying with a condition attached to planning permission Ref SB/15/01837/FUL, dated 2 June 2016.
 - The condition in dispute is No 2 which states that:
"At the expiry of three years from the date of this permission the residential occupation of the land shall cease and the single mobile home hereby approved to be stationed on the land and all the sheds, outbuildings, structures and fences associated with the residential occupation of the land including footings and hard surfaces, shall be removed from the site".
 - The reason given for the condition is:
"A temporary permission for three years would give sufficient time for the appellants to find alternative accommodation and a condition would ensure that the site is cleared of all the structures associated with the use of the land for the siting of a mobile home".
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Procedural Matter

1. The appeal proposal relates to an application made to vary condition No 2 of the temporary planning permission granted on 2 June 2016 for three years.
2. The appellant wishes to change condition No 2 to enable the occupiers to remain on the site under a personal permission.
3. However, the application form is dated 23 October 2019 and therefore after the expiry of the temporary planning permission. An application under s73 of the Town and Country Planning Act 1990 would need to be made before the temporary planning permission expired, which is not the case as the temporary planning permission expired on 2 June 2019.
4. The Council and the appellant have been given an opportunity to comment, including whether they consider that there is a legal basis for proceeding with the determination of the appeal.
5. The Council advise that as the temporary period has expired there is no longer an extant permission for the site, meaning that it is not possible to apply to

extend the time period. The appellant has made no comment beyond what the Council have advised and is progressing a new planning application.

6. Taking into account the representations/comments received from the main parties, as the temporary period imposed by condition on the previous planning permission has expired there can be no appeal to vary the condition and therefore, in this case, no further action can be taken on the appeal.
7. In light of the above, I have not proceeded to determine the appeal.

Andrew Bremford

INSPECTOR