



Appeal Decision

Hearing Held on 25 January 2021

Site visit made on 26 January 2021

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 January 2021

Appeal Ref: APP/L3815/C/19/3239710

**Land south of Scant Road East, Hambrook, West Ashling, West Sussex,
PO18 8UB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Miley Connors against an enforcement notice issued by Chichester District Council.
 - The enforcement notice was issued on 12 September 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of two wooden chalet buildings on raised breeze block foundations in the approximate positions shown on the attached plan.
 - The requirements of the notice are (i) demolish the said wooden chalet buildings and their block foundations; and (ii) remove the resultant debris from the Land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background to the Appeal

2. The appellant occupies a gypsy and traveller site that was allowed on appeal in 2016 for 10 pitches. Two of the gypsy families on the site, the appellant and another have constructed a wooden chalet building each. These are not finished yet and are intended to replace the corresponding two mobile homes. The Council contend the structures are permanent dwellings, whereas the appellant argues they fall within the definition of caravans, or if they do not, then the impact of the two chalets is no different to the two mobile homes that can lawfully occupy the site.
3. There is no dispute over either family's gypsy status and it was explained at the Hearing that neither have any objection to living in a mobile home. The chalets were constructed simply because they have a longer life and are cheaper than a mobile home. For ease of reference I shall refer to the structures throughout as chalets

The Appeal on Ground (c)

4. There is no dispute the chalets fall within the size limits for a caravan. There was some discussion as to whether the mode of erection was in itself an issue in determining whether the chalets were caravans or not. But it was accepted that in the end it was their mobility that was the key.
5. The chalets were constructed on site and appear to be virtually complete except for some exterior cladding on the rear walls of both the units. The site is sloping and both units sit on a brick plinth that is roughly at ground level at one end of the unit and about 0.8m tall at the other. I saw beneath one of the units and the plinth was constructed of breezeblocks internally with a brick skin, and I assume both plinths are the same.
6. Both have brick steps leading up to the doors and there is the usual range of plumbing and electric connections. I could see from the one unit I saw beneath that the plinth has a timber frame along the top surface and the timber floor of the unit sits on the frame. There is no specific evidence either way, but I have no reason to doubt the appellant's argument that the unit is not fastened to the plinth, but sits on it, held in place by its own weight. This would be typical of similar structures I have seen in the past. The sole issue is therefore whether the units can be lifted onto a lorry for the purposes of movement to another site.
7. The appellant's agent argued they were constructed as rigid timber rectangles and so could be picked up by a crane, if enough straps were used to support the unit. The fact that internal walls and ceilings may be made of plasterboard that might crack or fail was irrelevant. The test was simply whether they could be moved.
8. I have a number of problems with this argument. Firstly there is no evidence that straps could be put under the units. They sit directly on the plinth and I could not see a way straps could be fed underneath without partially dismantling the plinth or constructing another frame beneath the unit which could then be jacked up. I also consider that for a unit to be moveable it must be capable of being moved without the fear of the internal walls and ceilings collapsing. But of greatest concern is that there is no evidence it could be moved at all. The fact that it might have been made to be rigid when it sits on its foundations is not the same as saying it would be strong enough to be picked up by a crane and hoisted onto the back of a lorry. The whole point of mobile homes is that they are made to be mobile, as that is how they are transported to the site in the first place. This is strong evidence that such a unit would pass the mobility test. In this appeal there is no evidence at all, and commonsense would suggest the units would not be mobile.
9. It is up to the appellant to demonstrate their case on the balance of probability and I do not consider they have done so. In my view therefore the units are not caravans and so the appeal on ground (c) fails.

The Appeal on Ground (a)

10. The two policies most relevant to the appeal are 33 and 45 of the Chichester District Council local plan. The site has planning permission as a caravan site and is conditioned to be occupied by gypsies only, with the number of caravans limited to 10. Following the failure of the ground (c) appeal, it follows the

appellants have in effect constructed two permanent dwellings on the site. Policy 45 deals with development in the countryside. Essentially new development should only be allowed where it cannot be met in a settlement and where it is essential to be in the countryside. Given there is already a lawful mobile home on the site then the accommodation needs of the family have been met and there is no 'need' for a permanent dwelling. The appellant stated it was built simply because it was cheaper and longer lasting than a mobile home. Consequently, the two units are contrary to policy 45.

11. Policy 33 deals with new residential development and sets out a number of criteria that should be met. These are to do with design, infrastructure, broadband, living environment, density, character of the surrounding area, and public safety. As the development replaces what would have been lawful mobile homes on an established site then the only issues are of design and character and appearance.
12. The whole site has a strongly urban appearance, with high walls and gates, tarmacked roads and hard standings covering nearly all the area occupied by the two units. I understand the walls and gates on the roadside do not have planning permission and are subject to enforcement action, but even setting them aside, there is a lot of hard landscaping and boundary treatments so that the overall site has a permanent and urban appearance. The only structures that suggest it is a caravan site rather than a housing estate are the mobile homes themselves. Although in terms of shape the chalets are not that different from a mobile home, the simple fact is they do look quite different. I consider this is a result of the use of materials, brought onto the site, rather than the typical look of a mobile home that was designed for transportability. The chalet units do not look like they are part of a caravan site and this adds to the sense of urbanisation of the wider site.
13. I am particularly mindful that if I accept the two units are in conformity with the Council's policies then it will be difficult to resist the conversion of other mobile homes into permanent dwellings. In which case the overall site will gradually cease to be a caravan site at all. There is a significant difference in principle between a caravan site, which is generally a rural feature and a housing estate which is not. In my view the impact of the two chalets while not overwhelming, does add to the sense of urbanisation of the site and would set a precedent that would be difficult to resist in the future. In those senses they are contrary to policy 33.
14. I am also concerned about the impact of the units on the Council's ability to provide for gypsy families in the future. At present the caravan site provides 10 pitches for gypsy families. It would be included in the caravan count for the area and in any Gypsy and Traveller Accommodation Assessment (GTAA). If the mobile homes on the site become permanent dwellings they will no longer be caravans counting towards the Council's provision of gypsy accommodation, in the same way that other permanent dwellings do not.
15. The appellant argues that in reality there is no real difference for the occupants between living in a mobile home and the chalets, and I have some sympathy with that view. Nevertheless, I have found the chalets to be harmful and so contrary to policies 33 and 45 and they could also have ramifications for the Council's provision of gypsy sites. There are no real reasons why the appellant

prefers the chalets to a mobile home other than convenience and cost and these do not outweigh the harm I have identified.

16. Several conditions were discussed but most seek to overcome specific issues associated with an approval of permanent dwellings, such as the need for a site plan, limit on the overall number of caravans remaining, permitted development rights and drainage and sewerage issues. However, the appellant did suggest making the permission personal to the named occupiers of the two units and their dependants. This could overcome concerns about the long term changes to the site but it would not remove the harm to policy or the potential for setting a precedent. The families could also be resident for many years to come so any immediate harms would remain. I do not consider such a condition overcomes the objections to the appeal that I have identified. I shall dismiss the appeal and uphold the notice.

Simon Hand

Inspector

APPEARANCES

FOR THE APPELLANT:

Phillip Brown – Planning agent

FOR THE LOCAL PLANNING AUTHORITY:

Tara Lang – Principle planning enforcement officer

INTERESTED PERSONS:

Cllr Roy Briscoe
Cllr Jane Mottershead