



Appeal Decisions

Hearing Held on 10 February 2021

Site visit made on 12 February 2021

by N Thomas MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 9 March 2021

Appeal A Ref: APP/C3810/C/19/3222033

Land at Wisteria Heights Caravan Park, Shripney Lane, Bersted, West Sussex PO22 9NS

- 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 J Connors of Connor Park Homes Ltd against an enforcement notice issued by Arun District Council.
- The enforcement notice, numbered ENF/211/16, was issued on 10 January 2019.
- The breach of planning control as alleged in the notice is:
Without planning permission breaching Condition 4 of Planning Permission reference BE/151/11 granted on 28 March 2012.
Condition 4 of Planning Permission reference BE/151/11 specifies that 'the caravans hereby permitted shall be occupied solely for holiday purposes only and shall not be occupied as a persons' sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of owners/occupiers of individual caravans on the site and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
Reason: The use of the site for all year round residential occupation would conflict with policies GEN2, GEN3, DEV39 of the Arun District Local Plan on the use of caravans and on residential development'.
Contrary to condition 4 of Planning Permission reference BE/151/11 and without planning permission, caravans are present on the land occupied as a persons' main place of residence.
- The requirements of the notice are:
 1. Cease to occupy the land for any purpose other than for holiday purposes; and
 2. Cease to occupy the land as a person's sole or main residence.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out in the formal decision below.

Appeal B Ref: APP/C3810/W/18/3214487

Shripney Garden Caravan Site, Shripney Lane, Bersted, West Sussex PO22 9NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.

- The appeal is made by Connor Park Homes Ltd against the decision of Arun District Council.
- The application Ref BE/135/17/PL, dated 8 December 2017, was refused by notice dated 8 August 2018.
- The application sought planning permission for extension to existing caravan park to provide 12no. additional mobile homes, associated parking area, formation of access and construction of electrical intake housing – Amendment to application BE/42/10 without complying with a conditions attached to planning permission Ref BE/151/11/, dated 28 March 2012.
- The condition in dispute is No 4 which states that:
The caravans hereby permitted shall be occupied solely for holiday purposes only and shall not be occupied as a persons' sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of owners/occupiers of individual caravans on the site and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
- The reason given for the condition is:
The use of the site for all year round residential occupation would conflict with policies GEN2, GEN3, DEV39 of the Arun District Local Plan on the use of caravans and on residential development.

Summary of Decision: The appeal is allowed and planning permission is granted in the terms set out in the formal decision below.

Preliminary Matters

1. At the hearing the appellant confirmed that Wisteria Heights Caravan Park is the new name for the site, and it was agreed that despite the variation in the site address it is clear that both appeals relate to the same site.
2. Planning permission¹ was granted to extend an existing caravan site in 2010. A further permission² was granted in 2012 which extended the boundary of the site and this was subject to four conditions and is the relevant permission. The condition in question restricts the use of the caravans to holiday purposes only and not as a person's sole or main place of residence. It also requires an up to date register of the names of the owners/occupiers of individual caravans and the main home addresses to be kept and made available to the local planning authority.
3. The planning application seeks permission for the continuation of the use of the caravan park without complying with condition 4, so that the caravans could be used as permanent residential accommodation as a person's sole or main place of residence. The enforcement notice alleges the use of the site in breach of condition 4. The notice was served on the owners/occupiers of four of the caravans as well as the owner of the site.
4. If one or both of the appeals succeed, planning permission would be granted to continue the use without complying with the condition and would effectively grant a new permission for the use of the land. New conditions may be imposed provided that they do not materially alter the development that was subject to the original permission and are conditions that could have been imposed on that original permission.

¹ Ref BE/42/10

² Ref BE/151/11

5. The parties agree that, since the application was refused and the enforcement notice served, the Council is no longer able to demonstrate a five year housing land supply (5YHLS). The Council has advised that it is no longer pursuing the first reason for refusal or paragraph 4.2 of the reason for issuing the notice.
6. On 19 January 2021 the Government published the 2020 Housing Delivery Test results. The views of the main parties were sought and I have taken them into account.
7. As the reasons for refusal of the planning application and the reasons for issuing the enforcement notice are broadly the same, I have dealt with the ground (a) appeal and the Section 78 appeal together.

The appeal on ground (a) and the deemed planning application, and the Section 78 appeal

8. Having regard to the reasons for issuing the notice and refusing the planning application, the main issues are:
 - The effect of removing condition 4 on the provision of visitor accommodation;
 - Whether the development makes adequate provision for affordable housing and essential infrastructure contributions;
 - Whether there are any material considerations, including the housing land supply position and any benefits of the development, which would mean that the development should be determined otherwise than in accordance with the development plan.

Visitor Accommodation

9. The effect of the removal of the condition would be to allow 12 caravans to be used as permanent residential accommodation. Policy TOU DM1 of the Arun Local Plan 2018 (ALP) deals with tourism related development and states that the change of use of camping and caravan sites to other uses, including permanent residential use, will not be permitted, unless the site is allocated for other development within the local plan. The site has not been allocated in the local plan for other development, and it has not been identified as a potential housing site in the Housing and Economic Land Availability Assessment carried out by the Council in February 2020.
10. The area is a tourist destination associated with Bognor Regis and the surrounding coastal area. The loss of the visitor accommodation reduces the tourism offer in the area and results in a loss of a source of contribution to the local economy through visitor spending. However, it was confirmed³ during the hearing that in the near-by area there are three caravan parks, which are licensed for well over 1000 holiday units. In this context, the harm arising from the loss of 12 units is relatively moderate. While there would be a cumulative effect if several small sites are lost, there is no evidence before me to demonstrate that there is such a trend in the area. The removal of condition 4 of BE/151/11 is nonetheless harmful to the provision of visitor accommodation and is therefore in conflict with ALP Policy TOU DM1.

³ Email received from Arun District Council containing details of site licences for Lidsey Caravan Park, Riverside Caravan Park and Willows Caravan Park.

Affordable Housing

11. For all developments of 11 residential units or more, ALP Policy AH SP2 requires the provision of a minimum of 30% of the total site number of units proposed to be provided as affordable housing. This should be on the same site in the first instance, with provision by way of a commuted sum only in very exceptional circumstances. The removal of condition 4 would create 12 units of permanent residential accommodation. While the mobile homes are not 'bricks and mortar' homes, they provide dwellings for people to live in on a permanent basis. The policy does not differentiate between types of homes and therefore I am satisfied that it applies to mobile homes.
12. The National Planning Policy Framework as revised in 2019 (NPPF) includes a definition of Affordable Housing in Annex 2: Glossary. Under part d) Other affordable routes to home ownership, it is stated that this includes other low cost homes for sale (at a price equivalent to at least 20% below local market value). The appellant has provided evidence that the median house price in 2013⁴ in Arun District was £216,500, with detached houses having a median price of £313,000. Taking into account inflation, the appellant estimates that the median price of a detached dwelling would be £361,985. More recent house prices indicate that the average selling price of park homes in the District is £160,625.
13. While the category of 'detached houses' would clearly encompass a range of house sizes and types, the average selling price of a park home is substantially more than 20% below local market value based on the median price. I have also had regard to the limitations of mobile homes when compared with 'bricks and mortar' homes, such as the generally restricted garden space with less privacy than conventional housing, their elevated ground floor level requiring an access ramp, as well as their advantages in terms of their modular form and construction.
14. Nonetheless, in my view, and based on the specific evidence before me, in this instance I consider that the mobile homes can be considered to offer an affordable route to home ownership. Moreover, they accord with the aims of the NPPF⁵ to address the needs of groups with specific housing requirements, particularly the elderly and those requiring single storey accommodation. A financial contribution towards off site affordable housing provision is therefore not justified in this instance.

Essential Infrastructure Contributions

15. ALP Policy OSR DM1 requires new development to contribute to open space, sport and recreation provision or improvements. The Arun District Open Space, Playing Pitches, Indoor and Built Sports Facilities Supplementary Planning Document January 2020 (SPD) sets out the steps to calculate contributions towards provision and a play space calculator has been provided. ALP Policy INF SP1 requires development to contribute towards the infrastructure and services needed to support development to meet the needs of occupiers and users of the development.
16. The appellant has completed Planning Obligations under Section 106 of the 1990 Act to meet the requirements for financial contributions set out by West

⁴ ONS House Price Explorer released in 2015 in Appendix D of the Appellant's Further Representations

⁵ NPPF Paragraph 59

Sussex County Council (WSCC) and Arun District Council (ADC). The obligations come into effect if the appeals are allowed. I have considered these in the light of the statutory tests contained in Regulation 122 of the Community Infrastructure (CIL) Regulations 2010 and paragraph 56 the NPPF. They relate to the following matters.

17. Education Contributions: contributions of £42,304 towards primary education, £45,531 towards secondary and £10,666 towards sixth form provision have been agreed. These are based on requirements set out by WSCC⁶ with site specific and detailed justification provided with the appeals⁷. The justification indicates that planned and windfall housing development will result in the local schools within the education planning area being over capacity. The contributions will be utilised for additional facilities, infrastructure and equipment as a result of increased pupil numbers. On the basis of the evidence before me I am satisfied that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.
18. The appellant has indicated that they would be willing to accept a condition restricting the occupation of the units to those over 55 years old, and that therefore the development would fall under the exemption for education contributions set out in the ECC document as a nil child product can be assumed. However, the appellant has not suggested that such a condition would prevent dependant children from living within the mobile homes, and therefore I do not agree that it would result in a nil child product from the development. The contribution towards education provision is therefore required.
19. Libraries Contribution: Bognor Regis has the closest library to the site and will need to expand to cope with the demands placed on it, in order to meet the relevant standard of 35 square metres per 1000 persons. This gives a required space from the development of 0.798 square metres, equating to a sum of £3,664. The contribution would be used towards providing a library facility to cope with the size of the population arising from development in the area. I am satisfied that this obligation passes the statutory tests.
20. Fire and Rescue Service Contribution: The area is served by the Southern Service Division in West Sussex. The development will place an increased demand on the service to respond to emergencies. The service works in an integrated manner to respond to emergencies across the area it serves, and capital projects have been identified and costed to provide the adequate level of service for the additional population. A sum of £296 is sought towards the installation of linked smoke alarms in existing homes for vulnerable people such as visually or audibly impaired residents or those unable to respond to a fire without assistance in Bognor Parish. This would free up the service to deal with larger incidents. I am satisfied that this sum would be responding to the additional demands placed upon the service by the development and that it passes the statutory tests.
21. These contributions are requested by WSCC and would be secured by the UU provided by the appellant. The UU would meet the requirements of ALP Policy INF SP1, CIL Regulation 122, and paragraph 56 of the NPPF.

⁶ West Sussex County Council – Planning Obligations: Explaining Contribution Calculations February 2020 (ECC)

⁷ Written CIL Justification by WSCC dated 8 February 2021

22. Off-site Play Space Contribution: Formal play space is not provided within the development. The SPD states that for developments of more than 8 dwellings and less than 34 an off-site contribution is required towards the provision of play space. A sum of £20,764 is sought towards the improvement of an existing play area at Berghestede Play Area in the Trees Estate in Bersted. This is stated to be the most local play area, and it is not unreasonable to assume that future occupiers may use it.
23. The sum requested is in line with ALP Policy OSR DM1 and the SPD and is directly related to the development. However, I have seen no evidence that the existing play space is inadequate, nor that there is a need for improvements of the play space as a result of any additional demands placed on it by the development. I therefore consider, on the basis of the information provided, that it has not been demonstrated that the contribution is necessary to make the development acceptable in planning terms and it does not pass the statutory tests.

Conclusions in relation to affordable housing and essential infrastructure contributions

24. In relation to affordable housing, I have found that the mobile homes are a low cost form of housing and therefore a contribution towards off-site provision is not required in this case. The development therefore makes adequate provision for affordable housing, and accords with ALP Policy AH SP2, which sets out the affordable housing requirements.
25. The financial contributions towards education, libraries, and fire and rescue services are necessary and are secured through the submitted UU. The development therefore makes adequate provision for essential infrastructure contributions, in accordance with ALP Policy OSR DM1, insofar as it requires that development contributes towards the infrastructure and services needed to support it.
26. The request for an off-site play space contribution is not adequately justified and I cannot therefore conclude that such a contribution is necessary to make the development acceptable. There is thus no requirement for the UU providing for a payment to ADC and there is no conflict with ALP Policy INF SP1 insofar as it seeks to require new development to contribute towards open space provision.

Housing Land Supply

27. The Council initially stated that it had a supply of approximately 2.9 years, established by an appeal decision made on 12 February 2020⁸. The Council's most recent Annual Monitoring Report (AMR) for 2019-20 was published in December 2020 and states that the 5YHLS has now increased to 3.3 years. I have seen no evidence that would lead me to doubt this figure.

Benefits

28. The appellant has identified a number of benefits. The use of the mobile homes for permanent residential accommodation would provide 12 additional dwellings, which would make a contribution towards meeting the need for

⁸ Appeal Decision APP/C3810/W/3236911

housing in the district. I give this benefit moderate weight due to the relatively small scale of the contribution.

29. The appellant stated that volume housebuilders do not generally provide for single storey living, and that 'bungalows' are sought after particularly by the elderly and less mobile. The occupation of the mobile homes could be restricted to those over 55 years of age to help meet the needs of the older generation, which is forecast to grow at a faster rate than the general population. The mobile homes provide adaptable modular accommodation and are low maintenance. The use of a planning condition would assist in ensuring that they are available for older people. I give this benefit moderate weight.
30. There are environmental benefits from using previously developed land, thereby reducing the pressure on greenfield sites for housing development. The site is adjacent to existing development. The parties agree that the site is in a location that is close to local services, including large retail stores at Southern Cross Industrial Estate, and a bus route that is accessible on foot providing links to Walberton and Bognor Regis. While there is no footway on Shripney Lane it was lightly trafficked during my site visit and I am aware that there are also public footpath routes providing links to the bus stop. These are benefits to which I give moderate weight.
31. The appellant also outlined that mobile homes are built to high standards in factory conditions. I give this limited weight as modern homes are also built to meet recognised standards.
32. While permanent residential use would result in council tax payments, it would also result in the loss of local visitor spending and possible business rate income, and I therefore give this minimal weight. While permanent residential occupation would be all year round, with accompanying local expenditure, the holiday restriction does not prevent year round occupation and I therefore give this benefit minimal weight.
33. The lack of harm to neighbouring amenity and the character and appearance of the area are neutral considerations.

Other Matters

34. The site is adjacent to the Shripney Conservation Area and within its setting, but the Council has not raised any concerns regarding the effect of removing the condition on its significance, and I have no reason to disagree.
35. A number of local residents have raised various concerns. While the current mobile homes on the site may be larger than the previous caravans on the site, I have seen no evidence to indicate that they do not meet the statutory definition of caravans. Thus, any change in the appearance of the site due to the change in the type of caravan is not a matter that is before me for consideration, nor can I require that the land return to agricultural use. The appeals do not relate to any alterations to the access to the site.
36. The Council has not raised concerns regarding the increase in traffic from a permanent residential use, and I have seen no firm evidence that any increase would occur, nor that it would cause highway safety or drainage issues. It has not been demonstrated that the removal of the condition would lead to harm to the living conditions of neighbouring occupiers, whether through traffic generation or the occupation of the caravans on a permanent basis.

37. I saw on my site visit that an office building was standing on the site, but this does not form part of the matters that are before me through the appeals. There are permitted development rights for caravan sites to undertake works required by conditions on a site licence⁹, and some of the works mentioned by third parties may be considered to be 'de minimis'. I am aware of concerns that the warden's caravan is not sited in accordance with approved plans, building materials have been stored on site and a tree has been removed. However, these are not matters that have any bearing on my determination of the appeals. I have seen no firm evidence that there is inadequate water or sewage infrastructure on the site. Nor have I seen evidence that the landscape planting that has been carried out was not in accordance with the requirements of the permission.

Planning Balance

38. I have found that the removal of the condition causes some moderate harm to the provision of visitor accommodation in the area, and this is in conflict with ALP Policy TOU DM1. The development also results in permanent residential development in the countryside, which is in conflict with ALP Policy C SP1 and BNDP Policy ES7.
39. The development the subject of the appeals is contrary to the development plan taken as a whole, in that it represents a permanent residential use in a countryside area. The appeals should be determined in accordance with the development plan unless material considerations indicate otherwise.
40. The NPPF is an important material consideration, given the Government's objective of 'significantly boosting the supply of homes'¹⁰. The parties agreed that in the absence of a 5YHLS the 'tilted balance' of Paragraph 11d) ii of the NPPF is engaged.
41. The provision of 12 units of permanent residential accommodation through the removal of the condition would have a modest beneficial effect on the Council's overall supply of homes, would assist in providing low cost housing for those with specific accommodation needs, and is located on a site with relatively good accessibility to local services.
42. Taking all of these factors into account, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. Therefore, the presumption in favour of sustainable development applies, which points towards the grant of planning permission. In conclusion, while not in accordance with the development plan, planning permission should be granted.

Conditions

43. In relation to section 73 and section 73A applications, the PPG advises that it is good practice to set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect. I have considered the conditions on the original permission and those suggested in the Statement of Common Ground in the light of the Planning Practice Guidance (PPG).

⁹ Class B Part 5 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

¹⁰ NPPF paragraph 59

44. The parties agreed at the hearing that the other original conditions on planning permission BE/151/11 are no longer required. Condition 1 has been discharged through the commencement of the use. Condition 2 does not pass the test in the PPG as it is not reasonable or necessary to control the location of the caravan bases as this is a matter for the site licence. The site has boundary planting and I have seen no evidence that there is a requirement for landscaping through Condition 3.
45. In terms of the conditions suggested by the Council, a condition to remove permitted development rights for means of enclosure higher than 1 metre is justified in order to prevent the uncontrolled demarcation of individual caravan pitches, which is more likely to occur in a permanent residential use. Details of external lighting are justified in the interests of the character and appearance of the area and protecting biodiversity, as external lighting is more likely to be required as part of a permanent residential use which will continue through the winter months.
46. The appellant has suggested a condition restricting the age of the occupiers to persons over the age of 55 and their household, is necessary to ensure that the benefit of providing housing suitable for the elderly is realised. A condition requiring no less than two of the caravans to be occupied solely for holiday purposes is not required, as this was suggested in the interests of avoiding the need for an affordable housing contribution.
47. Where an appeal on ground (a) is allowed in respect of a breach of condition, such that the condition being enforced against will be removed, planning permission should be granted on the deemed planning application for the development originally permitted, subject to all of the other conditions previously imposed.
48. However, where the appeal succeeds on the basis that one or more new conditions should be imposed, it is necessary not only to grant planning permission on the deemed planning permission as above, but also to discharge the condition that is subject to the enforcement notice and impose the new conditions on the original planning permission. I shall therefore exercise the parallel sets of powers in this decision.

Conclusion

49. For the reasons set out above, and taking into account all matters raised, Appeal A succeeds on ground (a) and the enforcement notice should be quashed. I shall discharge the condition which is subject to the notice, and grant planning permission on the application deemed to have been made for the change of use previously permitted, without complying with the condition enforced against but subject to new conditions as described above. The appeal on ground (g) does not therefore fall to be considered.
50. For the reasons set out above, Appeal B should be allowed.

N Thomas

INSPECTOR

Formal Decisions:

Appeal A - APP/C3810/C/19/3222033:

The appeal is allowed and the enforcement notice is quashed. In accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, condition no 4 attached to the planning permission dated 28 March 2012 granted by Arun District Council ref BE/151/11 is discharged and the new conditions in the attached schedule are substituted.

Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for an extension to existing caravan park to provide 12no. additional mobile homes, associated parking area, formation of access and construction of electrical intake housing – Amendment to application BE/42/10, without complying with condition 4 but subject to the other conditions attached to that permission and the new conditions in the attached schedule.

Appeal B - APP/C3810/W/18/3214487:

The appeal is allowed and planning permission is granted for an extension to existing caravan park to provide 12no. additional mobile homes, associated parking area, formation of access and construction of electrical intake housing – Amendment to application BE/42/10, at Shripney Garden Caravan Site, Shripney Lane, Bersted, West Sussex PO22 9NS in accordance with the application Ref BE/135/17/PL made on the 8 December 2017 without complying with condition No 4 set out in planning permission Ref BE/151/11 granted on 28 March 2012 by Arun District Council, but otherwise subject to the conditions in the attached schedule.

SCHEDULE OF CONDITIONS

1. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting this Order) no fences, walls, gates or other means of enclosure higher than 1 metre shall be erected on the site.
2. Prior to its installation, full details of any new or replacement external lighting together with their mechanisms and timings of operation shall be submitted to and approved in writing by the local planning authority. The new or replacement lighting shall be installed in strict accordance with the approved details and shall thereafter be maintained and operated in accordance with those details. No other external lighting shall be installed on the site.
3. The caravans hereby approved shall only be occupied permanently as a primary place of residence by persons who satisfy the following criteria:
 - i) Persons of 55 years of age or over;
 - ii) Persons living as part of a single household with such a person or persons of 55 years of age or over; or
 - iii) Persons who were living as part of a single household with such a person or persons of 55 years of age or over who have since died.

APPEARANCES

FOR THE APPELLANT:

Michael Rudd BSC (Hons) Msc LLM Barrister Kings Chambers

Nick Laister MRTPI Operational Director RPS

Joney Ramirez MA MRTPI Senior Planner RPS

FOR THE COUNCIL:

Simon Davis BA Hons Dip TP MRTPI Principal Planning Officer

INTERESTED PARTY:

Julie Twitchen

HEARING DOCUMENTS

HD1 Email from Simon Davis of Arun District Council providing details of nearby caravan parks

DOCUMENT PUT IN AFTER THE HEARING

HD2 Certified copy of the corrected unilateral undertaking put in by the appellant