



Appeal Decision

Site visit made on 16 February 2021

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 9 March 2021

Appeal Ref: APP/E2205/W/20/3255785

Blossoms Caravan Park, Church Hill, Charing TN27 0BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Love against the decision of Ashford Borough Council.
 - The application Ref 19/01420/AS, dated 3 October 2019, was refused by the Council by notice dated 9 April 2020.
 - The development proposed is change of use of existing caravan park to provide;
Area (A) – Use of existing caravan holiday site as static mobile home holiday park;
Area (B) – Continuation in use of central plot as touring caravan holiday site;
Area (C) – Change of use of former Nursery Area and caravan / motorhome storage and residential area, to extension area of the caravan holiday site for siting of static mobile homes; and
Area (D) – Provision of internal roads to provide on plot parking’.
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Decision

1. I dismiss the appeal.

Main Issues

2. These are;
 - The effect of the proposal on the character and appearance of the area.
 - The effect of the proposal on the living conditions of nearby residential occupiers.

Reasons

Preliminary Matters and Findings

3. In July 2020 the appellant made an application for a Certificate of Lawful Development described as *'use of building A as a self-contained dwelling; use of central plot (Area B) as a touring caravan site for up to 15 caravans; use of former nursery (Area C) for the siting of 5 residential caravans and for caravan storage'*. The Council refused that application in its entirety on 21 January 2021, and hence while the present s78 Appeal was in progress.
4. The appellant was asked to respond to the new information, although it was explained that the s78 appeal process cannot be used as a forum for what should be a s195 appeal against the refusal of the Certificate. Following consideration, the appellant requested that the s78 Appeal should proceed on its merits, with the intention of pursuing the refusal of the Certificate as a separate matter.

5. The areas notated as A, B and C on the Certificate application do not exactly equate to the areas listed in the current appeal description, but an analysis of Certificate application drawing DHA/14043/03A with the appeal drawing DHA/14043/02A lead to the following observations;
- The '*Building A*' in the Certificate application occupies part of the Area (C) of the s78 Appeal. Whilst the building would be removed in favour of part of the mobile home use and siting, the Officer's Report to the Certificate application accepted the likelihood of a mixed use that included an element of residential use, and this indicates some activity that carries weight in the current Main Issues.
 - The '*Central Plot Area B*' in the Certificate application roughly equates to the current Area (B) but includes part of Areas (C) and (A). The Officer's Report to the Certificate application accepted the intermittent siting of touring caravans but cast doubt on whether this was for storage or for occupation, and on the nature of any occupation. The lack of records of a touring use was commented on. However, some activity is indicated.
 - The '*Former Nursery Area C*' in the Certificate application occupies part of the Area (C) of the s78 Appeal.
 - The remaining part of the Area (C) of the s78 Appeal is presently occupied by the remains of polytunnels and did not form part of the Certificate application.
 - The part of the s78 Area (A) that does not overlap with the Certificate Area B does not form part of the Certificate application but is stated to benefit from a planning permission for up to 15 touring caravans for 12 months of the year (Ref 99/00878/AS).
6. Whilst the refusal of the Certificate application is clear and unequivocal, the Officer's Report provides background information on which that decision was based and that, together with the appellant's submissions to the s78 Appeal provide sufficient information on which to proceed to a Decision.

Character and Appearance

7. Local Plan Policy SP1 states strategic objectives which include focussing development on accessible and sustainable locations and conserving the natural environment. Policy SP6 sets out criteria for promoting high-quality design, while Policy ENV3a requires proposal to demonstrate particular regard to the landscape characteristics listed, proportionate to the landscape significance of the site. Tourism is the subject of Policy EMP11 with the Council supporting the retention of existing facilities, and sustainable growth through the provision of a wide variety of new facilities in appropriate locations.
8. Section 15 of the National Planning Policy Framework contains policy on conserving and enhancing the natural environment which features in the overarching environmental objective at paragraph 8. Paragraph 83 states that policies and decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, in support of a prosperous rural economy.
9. The Officer's Report to the Certificate application gives an indication of the condition of the site over time, and the observations at the current appeal site

inspection provided a clear picture of the effect on the character and appearance of the area on that day. The currency of a national 'lockdown' due to the Covid-19 pandemic and the cessation of even self-contained caravan stays must be acknowledged when considering the 'base' situation with any likely change resulting from the application.

10. Most of Area (A) appears to be uncontroversial in having an express permission for touring use up to a maximum of 15 caravans. The intention is to site 10 mobile homes on this area together with part of the Certificate Area B where elements of activity and siting are accepted by the Council. Some caravans were in place at the time of the inspection and worn patches within plots separated by trees indicated that a conventional touring site use would be possible in both parts.
11. The essence of a touring site would be a variety of types of caravan, notwithstanding the appellant's assertion as to the large size possible within highway towing provisions, and periods of plots lying vacant even in 'normal' times when freedom to visit throughout the 12 months would be in place. The character and appearance within the site would be of informal, perhaps spasmodic use, variety and a generally limited size of caravan. The impact from the public road would be limited in appearance, with the character being that of the caravan being left as a base from which to tour the Kent countryside by car.
12. The proposed replacement of the apparently established use with static mobile homes would alter the character and appearance of the site and the area significantly. Mobile homes as defined may be substantial, although the 10 shown scale approximately 5m by 13m, and the height may be greater than a touring caravan, often set above the ground to accommodate the underframe and services; a pitched roof is not uncommon. The appearance within the site would be of a more established, built-up series of structures and the size and bulk would require unsympathetic screening on the boundary or would be seen as an intrusive feature of the roadside.
13. Whilst adjacent to a recreation ground and playing fields, the likely use of mobile homes would differ from touring caravans in allowing larger family groups and greater activity on site, and the decrease from the permitted 15 units to the 10 sought would not mitigate this risk sufficiently.
14. The Area (C) mobile homes would be in place of a different and more controversial form of stationing and use, dealt with by the Officer and the applicant in the Certificate application in some detail. There appears to be an agreement that at least 5 units have been in place over a long time, but the Officer was not convinced as to the required continuity of use.
15. The situation seen at the site inspection was not attractive, and together with the derelict polytunnel area and part of the car park that would also form the appeal Area (C), the character and appearance experienced within the site was of a poor quality, and the ground was subject to puddling.
16. Nevertheless, however the evidence is weighed as to the 'baseline' situation, the proposed 16 mobile homes shown within Area (C) on drawing DHA/14043/02A would be a significant addition of solid features as opposed to the presence of units referred to by the Council Officer, and would represent an incursion of greater activity deeper into the site. This taken with the 10 units

in Area (A) would increase the activity and amount of site covered to too great an extent. The regimented layout and close spacing would further erode the rural nature of the rear part of the site, limiting the scope for meaningful landscaping between and around plots, the reduction in the parking area indicating that room would be allocated closer to plots, further eroding the soft landscaping potential.

17. The 8 touring caravan pitches shown on Area B would be a very minor part of the proposal and would be less than those already permitted on the site. In tidying the run-down nursery polytunnel area, there would be benefits, but the visual improvement would not be readily appreciated from public areas.
18. To conclude on this issue, even taking the most intensive use of the site put forward and either referred to or accepted by the Officer in the Certificate Report, the introduction of up to 26 static mobile homes would be an over-intrusive change to the character and appearance of the site and the area, and the change of use would introduce activity and noise that has not been shown to exist at present, which would have an unacceptable impact on immediately neighbouring residents.
19. There would be improvements to the somewhat run-down character and appearance in places, but the overall effect would be of an intensity of use and mobile homes that would cause harm contrary to the aims of Policy SP1 on conserving the natural environment, and Policy ENV3a in failing to pay sufficient regard to the landscape of the site and area, and would not represent the standard of design sought in Policy SP6.

Living Conditions

20. The Council are concerned over intensification of use and the risk of noise and disturbance from traffic adversely affecting nearby residents. Paragraph 127f) of the Framework seeks a high standard of amenity for existing and future users.
21. The site is in a rural area with a network of roads and sporadic development, and holiday visitors to the site would have a choice of major road and motorway routes to within a reasonable distance of the location. It was noted that at the time of the site inspection, Church Hill was closed at its eastern junction, and the signposted route from the western junction was the only one available. In 'normal' times there would be this choice of immediate access to the site and the public house at Charing Heath would be open within an easy walking distance.
22. As a touring caravan site, based on the 15 pitches referred to, there would likely be the arrivals and departures of towed caravans, perhaps for short stays as part of a tour of the wider south-east area, as well as the day-to-day car excursions to places of interest. Comment has been made as to the actual use in recent times, but the 15 pitch use does not appear to have been abandoned. The lack of records presented to the Certificate application does however leave room for conjecture.
23. That touring use would be reduced to 8, which would be a benefit in terms of arrivals and departures of towed caravans and the noise and disturbance possible, while the significant numbers of mobile homes would be a 'one-off' delivery, the effects of which could be controlled, after which the day-to-day

traffic would be light vehicles. Whilst it is possible that the season may be extended for the use of mobile homes, there would likely be a lower occupancy rate in the winter and shoulder months.

24. There would be change, and there would be an increase in the intensity of use on the site, which has been found against in the first main issue, including an adverse effect on the character of the area through noise which would affect the limited number of immediate neighbours, but the likely effect on the living conditions of residents along Church Hill and the roads radiating from each end would be limited and acceptable.

Other Considerations and Planning Balance

25. Much of the Certificate claim centres on the full-time residential use of certain caravans and the Building A. Representation has been made to this s78 appeal as to the risk of full-time residential use as a 'park-home' site. However, the application is clear as to intended holiday use and conditions could be employed to ensure this, with limits on the length of stay, and a requirement for record-keeping to allow enforcement. These conditions would be necessary and reasonable to prevent the formation of housing in the rural area contrary to local and national policy.
26. The provision of good quality holiday accommodation in rural areas is supported at local and national level, through Policy EMP11 and paragraph 83 of the Framework, and the proposal would enhance the 'offer' on the site. Nevertheless, failings have been identified due to the over-intensive siting and lack of scope for meaningful landscaping such that the proposal would not reach the standard of tourism provision sought.
27. There is a planning balance to be struck between the benefits, including furthering tourism and rural economy aims, as well as the removal of unattractive features and the opportunity to exert control over the appearance. However, the harm identified through the over-intensive siting of the mobile homes in particular militate against the balance being favourable, and the local and national policies on development in the countryside should take precedence.
28. The Council provided further information on the possible need for mitigation of the effects on the Stodmarsh Lakes, which contain a Special Protection Area for Birds, a Special Area of Conservation, and a RAMSAR Site. Were this Decision to be for the grant of permission, a Habitats Regulation Appropriate Assessment would be required, as the Inspector at appeal is the Competent Authority. In view of the conclusion to dismiss the appeal and withhold permission, no further action is required.

Conclusions

29. Whilst there would be benefits, the planning balance is that they are outweighed by the harm identified, and the failure to accord with policies which seek good design and the protection of the environment leads to the conclusion that the appeal should be dismissed.

S J Papworth

INSPECTOR