
Appeal Decision

Site visit made on 16 March 2021

by N Thomas MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 16 April 2021

Appeal Ref: APP/P1425/C/20/3249900

Land at Workshop, 18A Valley Road, Peacehaven BN10 8AE

- 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 Dave Diamond against an enforcement notice issued by Lewes District Council.
 - The enforcement notice was issued on 27 February 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from the use for car repairs (B2 use class General Industrial) to a mixed use for car repairs and the residential use of a static mobile home marked as building A on the attached plan.
 - The requirements of the notice are:
 - (i) Cease the unauthorised use of the static mobile home marked building A on the attached plan.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) 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.
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Decision

1. It is directed that the enforcement notice is corrected by:
 - The deletion of the words 'static mobile home' and the substitution of the word 'caravan' in the alleged breach of planning control and in requirement (i).
 - Deletion of the word 'building' from the alleged breach of planning control and from requirement (i).
2. Subject to the corrections, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. Planning permission¹ was refused to site a touring caravan for seasonal occupation (April-October) on the site and a subsequent appeal² was dismissed. A further application³ for a touring caravan for seasonal occupation was refused, which included the demolition of an existing stable, the erection of

¹ Ref LW/17/0567

² Ref APP/P1425/W/18/3197885

³ Ref LW/19/0463

a new two metre high wall on the south and east elevation, and the demolition/rebuilding of a shed.

4. The Lewes District Local Plan Part 2 Site Allocations and Development Management Policies (SADMP) was adopted on 24 February 2020. The parties have been given the opportunity to comment on its implications for the case.

Matters Concerning the Notice

5. The notice refers to the residential use of a static mobile home marked as building A on the attached plan. I saw on my site visit that it is a touring caravan, as identified on a photograph included in the appellant's statement. The appellant refers to it as a caravan throughout his appeal statement. As a static mobile home would normally fall within the definition of a caravan⁴ it would be more properly described as such. I have seen no evidence that the caravan should be considered to be a building. I am satisfied that I can correct the notice using my powers under s176(1)(a) of the 1990 Act without causing injustice.

The ground (a) appeal and the deemed application

6. The ground of appeal is that planning permission should be granted for the application deemed to have been made.
7. Having regard to the reasons for issuing the notice, the main issues are whether the site is a suitable location for residential use having regard to:
 - its countryside location;
 - the effect of the car repair use on the living conditions of the occupiers of the caravan, in terms of noise and disturbance.

Countryside Location

8. The site is within the open countryside outside the settlement of Peacehaven. Valley Road runs along a steep sided valley bottom, where there is some scattered development, including some dwellings and mobile homes, interspersed with areas of open land and fields. The appeal site is set on the steeply sloping valley side, with a series of buildings and the caravan set on hard surfaced levelled areas. The valley and the slopes form an area of open countryside between the urban edge of Peacehaven and the boundary of the South Downs National Park (SDNP).
9. Policy CT1 of the Lewes District Local Plan Part 1 Joint Core Strategy May 2016 (CS) states that development will be contained within the planning boundaries, while planning permission will not be granted for development outside the boundaries, other than for specific exceptions. CS Policy CP 2 requires that homes are delivered in the most sustainable way. CS Policy SP2 sets out the strategy for the distribution of housing, which is centred on the settlements, allocations in the SADMP, affordable housing on exception sites, and infill development within the planning boundary.
10. While there are a number of buildings on the site which partially screen the caravan from Valley Road, due to the elevated position of the caravan on the

⁴ as set out in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended.

valley side, it is visible in the wider area. The residential use of the caravan is likely to result in the land around it taking on a more domestic appearance and character, with associated residential paraphernalia such as washing lines, outdoor seating, parking of vehicles, and levels of daily activity associated with a residential use. While the caravan itself could be retained in a use ancillary to the lawful use of the land, it is the residential use of the site that consolidates the scattered residential development in the area, resulting in an erosion of the rural character and the contribution of the site to the setting of the SDNP as a 'buffer' to the urban area of Peacehaven.

11. The appellant states that the caravan is necessary to provide for the housing needs of himself and his wife for overnight stays on the site, but has not identified that the residential use meets any of the exceptions to the policies of restraint in the countryside.
12. The appellant suggests a condition to restrict the residential use to the period between 1 March and 31 October and states that this would prevent the establishment of a permanent use. However, the permission would be permanent and the restriction to a 'season' would not overcome the harm identified.
13. Therefore, on the basis of the evidence before me I conclude that the site is not a suitable location for a residential use, having regard to its countryside location. It is therefore in conflict with CS Policies SP2, CT1 and CP2, insofar as they seek to control development in the countryside and conserve the high quality and character of the rural environment. It is also in conflict with the National Planning Policy Framework (NPPF). In arriving at this conclusion, I have had regard to the effect on the setting of the SDNP and the purposes for which the National Park is designated, in accordance with section 11 of the National Parks and Access to the Countryside Act 1949 (as amended).
14. The appellant argues that CS Policy SP2 makes allowance for 600 dwellings to be permitted on unidentified small-scale windfall sites during the plan period. However, I have found that the development is in conflict with the development plan policies that apply to windfall development, as it is not in a suitable location.

Living conditions

15. The caravan is in close proximity to buildings, which I understand to be in use for car repairs. It could reasonably be expected that the use gives rise to a degree of noise and disturbance which could affect the living conditions of the occupiers of the caravan. This is in conflict with CS policies ST3 and CP11 which seek, amongst other matters, to ensure development is high quality and respects the amenities of occupiers.
16. The appellant argues that as the caravan is occupied by the appellant, who also carries out the car repair activities, there is no conflict between the two uses. He suggests that a condition could be imposed to limit the occupation of the caravan to he and his wife, or to a person or persons employed in the business and their immediate family. I agree that such a condition could address the concern, if I were minded to allow the appeal. On this basis, I am satisfied that the site is a suitable location for a residential use having regard to the effect of the car repairs on the living conditions of the occupiers of the caravan in terms of noise and disturbance.

Other Matters

17. A range of concerns have been raised by local residents. As I am dismissing the appeal, I have not pursued these matters further.

Conclusion

18. Although I have found in favour of the appellant in relation to the second main issue, for the reasons set out above, and having regard to all matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

N Thomas

INSPECTOR