



Appeal Decision

Site visit made on 16 August 2021

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2021

Appeal Ref: APP/P2114/C/20/3262528

The Acorns, also known as Park Lodge, Lower Woodside Road, Wootton, Isle of Wight

- 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 Trevor Towill against an enforcement notice issued by Isle of Wight Council.
 - The enforcement notice was issued on 30 September 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land from agriculture to a mixed use of agriculture and the siting of two caravans shown in the approximate locations hatched blue and numbered 1 and 2 on the attached plan B to the notice used for residential accommodation.
 - The requirements of the notice are: 1. To cease the use of the two caravans shown in the approximate locations hatched blue and numbered 1 and 2 on the attached Plan B for residential accommodation. 2. To remove caravan 2 shown in the approximate location hatched blue and numbered 2 on the attached Plan B from the Land.
 - The period for compliance with the requirements is 6 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.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld with a correction and variation.

The Enforcement Notice

2. The breach of planning control concerns a use of land however the first requirement is to cease the use of two caravans for residential accommodation. It is accordingly more appropriate to require the cessation of the use of the land. Such a correction would not make the notice more onerous and therefore injustice to the parties would not arise.

The ground (a) appeal

Main Issue

3. The main issue is whether or not the site is in a suitable location for two residential caravans having particular regard to local and national policy.

Reasons

4. The site is located in rural surroundings and is outside of a settlement boundary for planning policy purposes. It is accessed via a narrow network of lanes that serve other properties as well as tourist/residential uses. The site itself is modest in size, being roughly triangular, with mature planting, and accommodates two residential mobile homes (caravans) and some outbuildings/structures.
5. The deemed planning application concerns the use of the land for the siting of two caravans for residential accommodation.
6. The Council accepts that Policies SP1 and SP2 of the adopted Island Plan, Isle of Wight Core Strategy, March 2012 (the LP), which relate to housing, are out of date, albeit Policy SP1, as a strategic policy, can still provide locational guidance. The policies are out of date because the Council is unable to demonstrate a five-year supply of deliverable housing sites and the latest Housing Delivery Test shows that only 54% of housing need has been delivered over the last 3 years. Accordingly, the presumption in favour of sustainable development may apply in accordance with paragraph 11d) of the National Planning Policy Framework (the Framework).
7. The Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The appellant contends that retaining the residential use would achieve this, however, two residential caravans occupied by family members only brings moderate benefits to the economy and limited benefits to the social well-being of the local community.
8. The site is a rural one, accessed by means of a narrow network of lanes which are unlit and without footways. There is also little evidence about employment opportunities that could be accessed without being reliant upon a private car. There is therefore an absence of proximate services and facilities. I am therefore not persuaded on the evidence before me, including that of my site visit, that the site is in a sustainable location. It is therefore not a location where a new residential use would normally be considered acceptable which is an adverse impact that significantly and demonstrably weighs against the retention of the two residential caravans.
9. The appellant does not consider the site to be in an isolated location, however as he is not contending there to be an essential need for a rural worker, the optimal viable use of a heritage asset, re-use of disused buildings, subdivision of an existing residential dwelling or exceptional design quality, I need not specifically consider this matter. The appellant also does not contend that the residential caravans amount to a rural exceptions site to provide affordable housing.
10. I therefore conclude that the site is not in a suitable location for two residential caravans and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply. This is a matter to which I attach considerable weight.

Other Considerations

11. The thrust of the appellant's case then concerns his personal circumstances. He has lived at the site for over 9 years and is registered blind. I have no doubt that he therefore benefits from being in a longstanding familiar environment and I attach significant weight to the personal circumstances of the appellant himself. It is said that he is also unable to afford accommodation elsewhere, which may place additional financial burdens on the public purse, however financial concerns such as these cannot be regarded as a substantive planning justification in itself.
12. The deemed planning application however concerns two residential caravans. It is said that the second caravan is occupied by family members who provide care. There is however very little evidence concerning their circumstances and the extent of care then provided to the appellant. I therefore have very little evidence as to the care requirements of the appellant to justify a further permanent residential presence at the site. There is also very little evidence concerning other options that have genuinely been explored in terms of the extent and provision of care and the reasons why these may have been discounted.
13. I am concerned that a second residential caravan, with associated family, consolidates the residential use of the site. This therefore tempers the weight that I can afford to the personal circumstances argument when I consider the deemed application as a whole, such that I can only afford the case, for two families and two residential caravans, limited weight. It would therefore also not be appropriate to consider a personal planning permission that would then relate to two residential caravans and there is little evidence to demonstrate why a protracted temporary planning permission would make the situation any less traumatic.
14. The Council has introduced further planning objections to the continuation of the residential use. This introduction could have caused the appellant injustice and I have seen little explanation as to why the need for planning contributions were not first raised in the reasons for issuing the notice. The site is within the buffer zone of a Special Protection Area. Planning permission should therefore not be granted where there is a risk that a development may have a significant effect on internationally designated sites either individually or in combination with other plans or projects. The Council has also raised the need for an affordable housing contribution, but aside from then including a Supplementary Planning Document, does little to explain its changed position. Whilst I note the appellant has submitted a Unilateral Undertaking in an effort to address these matters, as I am dismissing the appeal on other grounds, I need not consider them further.

Planning Balance

15. The Council's policies which are most important for determining the deemed planning application are out-of-date. However, I have still found that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. I have afforded this considerable weight.

16. Whilst I have afforded significant weight to the personal circumstances of the appellant himself, the deemed application relates to two residential caravans and with it two families, for which I can afford only limited weight overall.

Conclusion

17. Based upon the evidence before me there are not material considerations that indicate planning permission should be granted for the deemed application. It is therefore a proportionate response to dismiss the appeal.
18. I conclude that the appeal on ground (a) should fail.

The ground (g) appeal

19. The appellant contends that the time given to comply with the requirements of the enforcement notice are too short and requests 12 months in which to comply. The Council consider that 6 months is ample but do not fundamentally oppose a period of 12 months.
20. Such a period would however enable the appellant and the family members to make suitable alternative arrangements without unduly perpetuating the breaches of planning control. In light of my findings, if the appellant is able to continue to reside at the site without the additional permanent residential presence (being the second residential caravan), this period also provides opportunity for him to explicitly make that personal case in the form of a planning application. That would, however, then be a matter entirely for the Council to determine.
21. The appeal on ground (g) therefore succeeds.

Overall Conclusion

22. For the reasons given above I conclude that the appeal should not succeed other than on ground (g). I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission.

Formal Decisions

Appeals A and B

23. It is directed that the enforcement notice be corrected and varied by:
- deleting the words '*1. To cease the use of the two caravans shown in the approximate locations hatched blue and numbered 1 and 2 on the attached Plan B for residential accommodation.*' and their replacement with the words '*1. To cease the use of the Land for the siting of caravans used for residential accommodation.*'
 - substituting '*12 months*' as the periods for compliance.
24. Subject to this correction and variation the appeal is dismissed and 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.

Paul T Hocking

INSPECTOR