



Appeal Decision

Site visit made on 4 January 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Appeal Ref: APP/J1535/W/20/3263208

The Steers, Pigstye Green Road, Willingale, Essex CM5 0QF

- 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 without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Martin, Jerry and Michael O'Connor against the decision of Epping Forest District Council.
 - The application Ref EPF/1056/20, dated 18 May 2020, was refused by notice dated 13 August 2020.
 - The application sought planning permission for the material change of use of the land from domestic horse keeping to a mixed use of horse keeping and the stationing of caravans for residential purposes without complying with a condition attached to planning permission granted by appeal Ref APP/J1535/C/16/3147359, dated 12 June 2017.
 - The condition in dispute is No. 7 which states that: *"The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of that use shall be removed within 3 months of the date of failure to meet any of the requirements set out in (i) to (iv) below:*
 - i) Within 3 months of the date of this decision, or such other period as the Local Planning Authority may agree in writing, a scheme shall be submitted in writing to the Local Planning Authority for its written approval. The scheme shall include details of the following: the internal layout of the site including the siting of static caravans, sheds, areas of hardstanding, vehicle parking, fencing, gates, walls and other means of enclosure; proposed and existing external lighting on the site boundaries and within the site; the means of foul and surface water drainage of the site; tree, hedge and shrub planting (including plant species, plant sizes, number, density, the timing of planting, seeding and turfing and measures for the replacement of trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased); provision for the storage of waste and recyclables, and a timetable for the implementation and retention of each element of the scheme.*
 - ii) Within 11 months of the date of this decision, the scheme referred to above shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuses to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted by, the Secretary of State.*
 - iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been finally approved by the Secretary of State*
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and the approved scheme shall thereafter apply."*
 - The reason given for the condition is: *"to protect the character and appearance of the area and residential amenity"*.
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Decision

1. The appeal is allowed and planning permission is granted for the material change of use of the land from domestic horse keeping to a mixed use of horse keeping and the stationing of caravans for residential purposes at The Steers, Pigstye Green Road, Willingale, Essex, CM5 0QF, in accordance with the application Ref EPF/1056/20 dated 18 May 2020, without compliance with condition 7 previously imposed on planning permission granted by appeal ref APP/J1535/C/16/3147359, dated 12 June 2017, but subject to the conditions in the attached schedule.

Preliminary Matters

2. An application¹ was submitted to the Council pursuant to the requirement of part i) of condition 7 as set out in the header above. This included drawing no. J002748-DD03 Rev A which showed the internal layout of the site. In particular, this showed the position of three static caravans as being parallel to each other and each facing north. This application was approved.
3. The appeal seeks permission for an amended layout with two of the three static caravans positioned in a line along the east boundary of their pitches and facing west, and the third remaining as previously approved.
4. At the time of my visit, it was clear that the site is not arranged in accordance with the approved plan or that submitted with this appeal as all three static caravans were aligned along the east boundary and facing west. It also appeared that the combined area of the pitches is larger than as shown on either plan and extends to the south boundary of the appeal site. Nonetheless, I have considered the appeal on the basis of the submitted site plan.

Main Issue

5. The main issue is the effect of the proposed revised siting on the character and appearance of the area.

Reasons

6. The appeal site is within a rural area characterised by open agricultural fields, with some trees and hedgerows on the boundaries, and scattered dwellings. Views from Norton Heath Land and the public footpath to the west are limited by the row of trees along the western boundary and any views from Bassets Lane to the east are distant and mitigated by trees on the highway verge and vegetation on the east boundary of the appeal site.
7. There is a dense tree screen along the front of the site. However, at the site entrance the three static caravans are visible and would continue to be so when positioned as indicated in the submitted plan. Nonetheless, the scale of the caravans, their location on the site and the extent of the hardstanding would remain as approved; all that differs is the front two caravans would be turned through 90°. This means that, from the entrance, it would be possible to fully see all three caravans instead of each of them slightly obscuring the one behind, but this change would have a minimal visual impact. The visual effect on the wider area would be negligible given the boundary screening. Therefore,

¹ Ref PL/EPF/0309/18

the harm would be no greater than that which would result were the caravans positioned in the layout already approved by the Council.

8. The Council state the siting now proposed was before the previous Inspector and was found harmful, which resulted in the imposition of condition 7. However, I do not have the benefit of the evidence that was before that Inspector and there is nothing in his decision to suggest the orientation of the caravans specifically harmed the character and appearance of the area.
9. As the caravans are not positioned as per the approved plan, the Council contends that part (iv) of condition 7 has been breached. Even if that is so, I still give considerable weight to that permission, not least because the site could readily be rearranged in accordance with the approved plan to comply with that condition.
10. In summary, I do not consider the current proposal would have any greater impact on the character and appearance of the area than the previously approved layout. Consequently, when compared to that fall back, the development would accord with policy CP2 of the Epping Forest Local Plan (1998) and Alterations (2006), and draft policies DM9 and SP7 of the emerging Epping Forest District Local Plan (2017), which together seek to ensure proposals contribute to the local character and protect the natural and rural environment.

Other Matters

11. The Council suggests there is now a surplus of traveller sites, compared to when the previous appeal was allowed and therefore the planning balance does not favour the appellant. This is the basis for their second reason for refusal. However, the planning permission granted by that appeal is still extant and capable of being complied with, and that fact would not be altered even if I were to agree with the Council on this point. Hence my decision focusses on the difference between the current proposal and the extant permission.

Conditions

12. The planning practice guidance makes it clear that decision notices for the grant of planning permissions under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
13. The only condition that requires discharging is condition 7. The Council have suggested an updated version of that condition with the requirement for details of the internal layout and drainage details removed. The condition remains to require details of lighting, landscaping and waste storage and I consider these remain necessary to ensure the character and appearance of the area is preserved.
14. To address internal layout, I have attached a condition requiring the internal layout accords with the plan submitted with, and approved by, this appeal in the interests of certainty. In respect of drainage, I have included a condition, as suggested by the Council, that requires the drainage is provided in accordance with details already approved by the previous submission. This is in order to ensure satisfactory drainage of the site.

15. Conditions restricting the use of the site to the appellants, to gypsies and travellers and limiting its capacity to three pitches are necessary in the interests of certainty and to reflect the personal circumstances of the appellants. The conditions relating to the size and number of vehicles, and preventing commercial activities from taking place on the site, are necessary in order to protect the living conditions of nearby occupiers.

Conclusion

16. The development accords with the development plan taken as a whole and there are no other material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, the appeal is allowed.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 1) The use hereby permitted shall be carried on only by the following: Mr and Mrs Martin and Marian O'Connor and their resident dependents; Mr Jerry O'Connor, his wife Joanna Maloney and their resident dependents and Mr Michael O'Connor.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites, August 2015 (or its equivalent in replacement national policy).
- 3) The use hereby permitted shall be limited to 3 pitches. No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on any pitch at any time and no more than 1 caravan per pitch shall be a static caravan.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) Other than private motor cars, no more than 2 vehicles shall be kept on each pitch.
- 6) No commercial activities shall take place on the land, including the storage of materials, plant or equipment.
- 7) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of that use shall be removed within 3 months of the date of failure to meet any of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this decision, or such other period as the local planning authority may agree in writing, a scheme shall be submitted in writing to the local planning authority for its written approval. The scheme shall include details of the following: the proposed and existing external lighting on the site boundaries and within the site;

tree, hedge and shrub planting (including plant species, plant sizes, number, density, the timing of planting, seeding or turfing and measures for the replacement of trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased); provision for the storage of waste and recyclables, and a timetable for the implementation and retention of each element of the scheme.

- (ii) Within 11 months of the date of this decision, the scheme referred to above shall have been approved by the local planning authority or, if the local planning authority refuses to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted by, the Secretary of State.
 - (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been finally approved by the Secretary of State.
 - (iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and the approved scheme shall thereafter apply.
- 8) The internal layout of the site including the siting of static caravans, sheds, areas of hardstanding, vehicle parking, fencing, gates, walls and other means of enclosure shall be carried out in accordance with approved plan nos. J002748-DD03 Rev B and TQRQM20139215656011.
- 9) The means of foul and surface water drainage of the site shall be carried out and retained strictly in accordance with the details approved under application Ref. EPF/0309/18.