



Appeal Decision

Site visit made on 1 March 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th April 2022

Appeal Ref: APP/V2255/W/21/3277288

Plough Leisure Caravan Park, Plough Road, Minster on Sea, Sheerness, Kent ME12 4JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 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 Plough Leisure Caravan Park against the decision of Swale Borough Council.
- The application Ref 20/502811/FULL, dated 3 August 2020, was refused by notice dated 24 March 2021.
The application sought planning permission for the variation of condition (i) of planning permission NK/8/61/83 to extend occupancy period from eight to ten months (1st March to 2nd January) without complying with conditions attached to planning permission Ref SW/12/0024, dated 10 May 2012.
- The conditions in dispute are Nos 2, 3 and 4 which state that:
Condition 2: No caravans shall be occupied except between 1st March and 2 January in the following calendar year, and no caravan shall be occupied unless there is a signed agreement between the owners or operators of the Park and all caravan owners within the application site, stating that: (a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any permission to believe that it is being used as the sole or main residence; and (b) No caravan shall be used as a postal address; and (c) No caravan shall be used as an address for registering, claiming or receipt of any state benefit; and (d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rents Act 1968 and 1974, and (e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence. On request, copies of the signed agreement(s) shall be provided to the Local Planning Authority.
Condition 3: Any caravan that is not the subject of a signed agreement pursuant to condition 2 shall not be occupied at any time.
Condition 4: The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.
- The reasons given for the conditions are: Condition 2,3 and 4: In order to prevent the caravans from being used as a permanent place of residence, and in pursuance of policies E1 and E6 of the Swale Local Plan 2008

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appellant's appeal, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I sought the views of the main parties in writing

and I have taken any subsequent responses into account in reaching my decision.

Main Issues

3. The main issues in this appeal are whether the:

- conditions are reasonable with regard to the effect of the development on the character and appearance of the area,
- location of the development is appropriate having regard to the development plan, and
- proposal provides adequate mitigation measures in respect of the Habitat Regulations and appropriate contributions towards infrastructure provision.

Reasons

Character and Appearance

4. The appeal site is a largely open parcel of land with hedging to its north, east and southern boundaries and a belt of trees running through the middle. The southern part of the site contains several rectangular concrete pads and an access road allowing vehicles to enter into this part of the site. The main access off Plough Road directs vehicles to the north west corner of the appeal site where a small group of buildings, including a reception office, are located.
5. The site is part of the more open and rural landscape to the north of Plough Road which has a distinct rural character that is reinforced by the presence of mature landscaping within this countryside setting. Dwellings on Parker Avenue and Kingsborough Drive that back onto Plough Road form part of, and are intrinsically linked to, the larger built up area to the south.
6. The Council argue that the occupational restrictions set out within the original permission are necessary to ensure that the character of the area is protected, especially during the closed season. Moreover, a permanent use of caravans would prejudice the Council's approach to holiday accommodation as set out within the Swale Borough Council Local Plan 2017 (LP). Policy DM5 of the LP recognises this and states that in order to ensure a sustainable pattern of development, and to protect the character and appearance of the countryside, planning permission will not be granted for the permanent occupation of caravans and chalets.
7. The site lies beyond any identified built-up boundary identified under Table 4.3.1 of the LP and thus, lies within the countryside. Policy ST3 of the LP states that locations in the countryside, outside of built-up area boundaries development will not be permitted unless it is supported by national policy and, amongst other things, contributes towards protecting the intrinsic beauty of the countryside and the vitality of rural communities.
8. I note that the site is not within a defined holiday area as shown on the adopted Proposals Map. However, the Council confirm that the appeal site has been the subject of a successful application for a lawful development certificate¹ to demonstrate that it is lawful to place caravans on the appeal site, subject to the conditions that are the subject of this appeal. The appellant also states that the site is committed to a development of caravans. It is argued however, that if the effect of the development on the character and appearance of the area is acceptable for 10 months of the year, it follows that the remaining two months,

¹ 17/506202/LAWPRO

notably January and February, should also be considered acceptable as the caravans would still be on the site. Therefore, it is whether the caravans are occupied or not, any visual impact would remain.

9. I accept that the stationing of either static or touring caravans for holiday purposes within a countryside location such as this, would not be considered out of place given its location adjacent to existing caravan parks, and is something that one could expect to see. Nevertheless, the effect of the development on the character of the area derives not just from a caravan's physical appearance, but also its use.
10. Notwithstanding that the 'closed months' may take place in January and February, the cessation of the holiday use of the caravans allows a period of respite from holiday makers, creating a more peaceful and tranquil time whereby those that live permanently in the area can quietly enjoy the facilities and amenities that ultimately draw holiday makers to the area.
11. Moreover, as the proposal seeks the permanent occupation of the site, I am not persuaded that there would only be little activity generated. Although I accept that the development would not harm the living conditions of surrounding occupiers through noise and disturbance, overlooking and such like, there would still be the comings and goings associated with the 38 units. Furthermore, notwithstanding that the age limit would be set at 55, this could include taking children to school, along with travel to work each day, receiving post and other deliveries such as internet orders, the daily parking of resident's vehicles and so on. There would also be off-site demands such as those for educational and medical services which cannot be likened to those occupying the caravans for a holiday. The permanent occupation could also result in domestic features such as fencing, washing lines, lighting and garden furniture which add to the effect of the permanent use of the appeal site.
12. Therefore, there is a clear difference between a seasonal holiday use and the permanent occupation of the caravans as residential units. I am not persuaded that the closure of the site during the months of January and February is not necessary to allow a more peaceful time when the area is free from visitors.
13. Thus, the development would result in harm to the character and appearance of the area and prejudice the Council's approach to holiday accommodation. It would be in conflict with Policies CP1, ST6, DM3, DM5 and DM14 of the LP which seek, amongst other things, to restrict the occupation of caravans for recreational use and during certain months of the year to ensure a sustainable pattern of development and to protect the character of the countryside.

Location

14. The appellant has provided details of the facilities available in Minster and those that are closer to the appeal site. Although the parties disagree slightly over the exact distance from the appeal site to these services, there is agreement that a bus service from Chequers Road/Eastchurch Road serves Minster to the west where a range of facilities including healthcare can be accessed.
15. The distance to the bus stops is between 0.3 and 0.5km and includes a walk along Plough Road which is quite narrow and does not have continuous footpaths or street lighting. The Council confirm that buses operating from the stops is limited to an hourly service which, from the evidence that has been provided, does not operate late into the evening.
16. Therefore, given the distance to the bus stops and the lack of continuous footpaths and adequate street lighting, I am not persuaded that future occupiers of the

proposed caravans would rely on public transport to access services and facilities. Moreover, although I acknowledge that occupiers could access the bus stops via alternative route through the holiday park, it is highly probable that those residing at the appeal site would not walk to the bus stop during bad weather, the winter months, at night or when laden with shopping. Moreover, those with low mobility are also unlikely to walk to the bus stop to access services within Minster or further afield.

17. Thus, notwithstanding that the caravans are aimed at older residents that may indeed possess a bus pass, I do not find the prospect of walking the 500 or so metres to catch a bus an appealing prospect. Moreover, given the overall distance and lack of connecting footpaths, I am not persuaded that occupants would choose to walk, or indeed cycle, to Minster either.
18. For these reasons, I consider it likely that future occupants of the development proposed would be predominantly reliant on the car to access a range of services and facilities necessary to meet their day to day needs. Although future occupants may choose to utilise the services available in Minster this can in no way be guaranteed and the extent to which this may directly maintain or enhance the vitality of services in the area is unclear in any event.
19. The Council's decision notice also refers to paragraph 79 (now paragraph 80) of the Framework which seeks to avoid isolated homes in the countryside. The courts have determined that when considering such matters, it is generally held that the term isolated means far or remote from a settlement. In this instance, I do not find the appeal site to be remote from the settlement of dwellings that make up Kingsborough Manor to the south of the appeal site. Thus, the circumstances listed at paragraph 80 of the Framework do not apply.
20. However, notwithstanding the proximity of other houses at Kingsborough, the appeal site lies beyond a built-up boundary and is within a location where development is restricted. I consider that it is not within a location where a range of goods and services would be accessible via sustainable transport modes. This is a factor that does not weigh in favour of the appeal proposal.
21. Thus, it is highly probable that future occupiers would be heavily reliant on the private motor car to access services and facilities required for day to day living. The development does not seek to promote healthy communities as set out at paragraphs 8, 92 c) and 104 c) of the Framework. It is in conflict with Policies ST1, ST3, ST6, CP3, DM5 and DM14 of the LP which seek, amongst other things, to achieve convenient routes and facilities for pedestrians and cyclists.

Contributions

22. The development falls within the Zone of Influence of the Swale and Medway Estuary Special Protection Area where wintering birds are located. In combination with other developments in Swale, additional residential accommodation would be liable to lead to recreational disturbance and so have a detrimental impact on the birds. There would therefore be a likely significant effect on the SPA.
23. To ensure the requirements of the Conservation of Habitats and Species Regulations 2017 are met, the Council requires the collection of payments from relevant developments towards the mitigation measures set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy. The collection of the tariff to facilitate off-site measures is intended to avoid significant or long-term impacts. Natural England concurs with this approach.

24. However, as the appeal is being dismissed on other substantive issues, it is not necessary to look at this matter in detail. Moreover, had I been minded to allow the appeal, I would have explored the necessity for undertaking an Appropriate Assessment and whether the payment provided by the appellant would off-set the impact of the development on the site identified above.
25. Additionally, the contributions towards health facilities, community learning, libraries, social care and waste services secured through the undertaking submitted by the appellant would only be necessary to make the development acceptable in planning terms. Thus, this aspect is a neutral factor in the case rather than a benefit.

Other Matters

26. Whilst I acknowledge that the LP seeks to restrict new and extended static holiday caravan sites, I have not been presented with any substantive evidence to demonstrate that the role of Sheppy as a holiday destination is on the wane.
27. The appellant refers to the Interim Planning Policy Statement for Park Homes Sites (IPP) which was approved by the Council. Moreover, a letter² (the letter) was sent to park owners which sought opinions to establish whether there was demand for occupiers and owners to enable a full 12 month occupancy of accommodation, rather than the current 8/10 month constraint that was currently applied. The appellant also refers to Policy DM18 of the Swale Borough Council Local Plan Review 2021 (LPR) and argues that significant weight should be afforded to both the IIP and Policy DM18 of the LPR.
28. However, the Council has confirmed that it has since decided not to proceed with the LPR which was consulted on in February to April 2021 which will now be consulted on during spring 2022 with a view to adopting it in 2023. Furthermore, as the IIP was not publicly examined, it is not an adopted policy and does not form part of the development plan. I also recognise that the appeal site is not within a defined holiday area and that the LP does not seek to allow further holiday parks outside of the areas shown on the proposals map. However, as the LPR could be the subject of change, and given the status of the IIP, even as a material consideration, the weight that they can be afforded in support of the development before me is very limited.
29. The appellant has directed me to the housing development located to the south of the appeal site at Kingsborough Manor. Whilst I note this development, it is evident that this site is within a defined settlement boundary where residential development is accepted in principle. It is also residential in character, forming part of the traditional housing and larger built up area that exists to the south of Plough Road. Thus, it is not comparable to the site and development before me.
30. The appellant also refers to a scheme at Beckenham storage which was granted permission³ for 36 residential mobile homes for occupation by those aged over 55. Whilst I note this permission, it is clear from the officer's report that this site was used for the storage of caravans and not the occupation of caravans for holiday use. The site was also considered to be sustainable given its location close to a bus stop and thus, public transport options to access and services and amenities. Moreover, the development included improvements to signage to allow residents to walk to these services. That is not the case before me.

² Letter from Swale Borough Council dated 22 January 2020

³ SW/20/501183

31. Therefore, I am not persuaded that the permission at the Beckenham storage site or the development at Kingsborough Manor represent an irresistible precedent to find in favour of the development before me. In any event, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.

Planning Balance and Conclusion

32. The Council acknowledge that it cannot currently demonstrate a five year housing land supply. In such circumstances, the policies that are the most important for determining the application are considered out of date and the tilted balance at paragraph 11 of the Framework is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
33. It is evident that the development would provide lower cost homes, particularly for older people where there is an identified shortage. I recognise that there would be both social and economic benefits as a result of the proposal such as occupiers that may contribute towards the local economy, which would include those months when the site is normally closed, and employment associated with the construction and maintenance of the site.
34. However, good design and its impact on the character and appearance of an area along with sustainable development are recognised by the Framework. Accordingly, given my findings outlined above concerning the resultant harm to the character and appearance of the area and the inappropriate location of the site to access services and facilities, the proposal would fail to meet the environmental and social dimensions of the Framework. Consequently, the harm I have found is serious and, in my view, that significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework taken as a whole. Thus, the application of the tilted balance in paragraph 11 of the Framework does not indicate that planning permission should be granted.

Conclusion

35. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR