



Appeal Decision

Site visit made on 11 August 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2022

Appeal Ref: APP/V0510/C/21/3283900

Land at Wildtracks Offroad Activity Park, Chippenham Road, Kennett, Newmarket, Suffolk CB8 7QJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr J Gorst against an enforcement notice issued by East Cambridgeshire District Council.
 - The notice was issued on 25 August 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of part of a workshop unit, referred to as 'The Unit', to residential use by the creation of a self-contained flat.
 - The requirements of the notice are to:
 - i. Cease the residential use of the self-contained flat within 'The Unit'
 - ii. Remove the facilities supporting the residential use from the self-contained flat within 'The Unit', this includes: All beds, Toilet, Shower, Bath, Cooker, Washing machine and associated residential paraphernalia.
 - The period for compliance with the requirements is: 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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 varied by:
 - At section 5ii, the deletion of ', Toilet, Shower, Bath, Cooker, Washing machine', so that it reads 'Remove the facilities supporting the residential use from the self-contained flat within 'The Unit', this includes: All beds and associated residential paraphernalia.'
2. Subject to the variation above, 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. The appellant initially requested that the appeal be determined by way of a hearing as it is suggested the proposals require detailed discussion about the merits of the proposal and may benefit from a continuation on site to examine how the site functions. Section 319A of the Act gives the Secretary of State (SoS) the power to determine the procedure for dealing with enforcement appeals. In this case, the SoS determined that, given the grounds of appeal, it can be appropriately considered under the written representations procedure. Having reviewed the case, I am satisfied no-one would be prejudiced by my dealing with the appeal in this way.
4. The Unit, which I shall refer to as 'the dwelling', was first created in 2015 to provide occasional accommodation for students on work experience. It is also

stated to have been used by permanent staff, however, there is no suggestion that the occupation was continuous at this point and no appeal under ground (d) has been made. I have therefore considered the appeal on the basis of grounds (a) and (f) only.

Ground (a)

5. The main issues of the appeal are:

- Whether the appeal site is a suitable location for a dwelling, having regard to the proximity of services; and
- Whether the appeal dwelling provides acceptable living conditions for existing and future occupants, with regard to noise and disturbance and the provision of private amenity space.

Suitability of location

6. The appeal site comprises a three bedroom dwelling, located within a metal clad building, within the Wildtracks Offroad Activity Park (Wildtracks), which is located between the settlements Chippenham, Kennet and Red Lodge, within an area of open countryside for the purposes of applying planning policy.
7. The main thrust of the appellant's case is that the appeal dwelling is a rural worker's dwelling for the purposes of applying planning policy, as it supports a rural activity in a rural location and is asserted to be essential for the purposes of site security within the Wildtracks site.
8. Policy GROWTH2 of the ECLP 2015 seeks to direct new housing to identified market towns and defined development envelopes. Section 3.3 of the East Cambridgeshire Local Plan (ECLP) 2015 sets out the aim of the Locational Strategy is to ensure that growth takes place in the best locations, where it is 'sustainable' or where it can help support local services and community facilities.
9. Outside these areas, policy GROWTH2 states that certain exceptions may be allowed, including dwellings for essential rural workers. Policy HOU5 of the ECLP sets out the circumstances in which proposals for permanent dwellings in the countryside for rural activities will be permitted as an exception, including where it can be demonstrated that the dwelling is essential to the needs of the business.
10. Paragraph 80 of the National Planning Policy Framework (July 2021)('the Framework') states that planning policies and decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply, including a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. Although the appeal dwelling is located within the Wildtracks complex, given its location away from settlements, I consider it is isolated for the purposes of applying Paragraph 80 of the Framework.
11. The Planning Practice Guidance (PPG) sets out considerations that may be relevant to take into account when applying paragraph 80a of the Framework, including evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure effective operation of an agricultural, forestry or similar land-based rural enterprise.

12. The appellant advises that the site has been subject to criminal damage and burglary and whilst the police have been alerted, it is stated that they frequently fail to attend. Although security cameras are used, the appellant asserts that they cannot cover all of the Park. Furthermore, none of the employees live close enough to the appeal site to allow them to get there in time to prevent criminal action. Given the remote location of the facility, its proximity to the A11 and the storage of equipment at the site, I have no reason to doubt the appellant in this regard.
13. The individual who lives at the site is stated to work as a groundsman during the day and a night-watchman at night. While the appellant states the occupant of the dwelling appears to have been an effective deterrent to criminal activity to date, I see no reason why the night-watchman needs to live at the appeal site. Indeed, it is not unusual for a company to employ an individual to provide security at night. Such employees, in my experience, don't tend to live at the respective businesses, but may utilise an office with provision for refreshment.
14. Furthermore, since the individual employed to watch the site at night also works at the site during the day, I consider it highly unlikely that they are awake the entire night. An individual employed specifically to watch the site during the night, on the other hand, would be likely to be awake and so could respond more quickly than the night watchman, who may be asleep when an incident occurs. I am therefore not persuaded the dwelling is essential to the needs of the business.
15. Although the occupant of the dwelling works at the Wildtracks site during the day, which will remove their need to travel to work, they are likely to require goods and services found in settlements. Moreover, the occupant's wife, who works in London, will need to travel to and from the site and will also have a need to access goods and services. Although she stays in London during the week, which will limit the comings and goings to the dwelling, this may change.
16. The appellant suggests restricting occupancy of the dwelling by condition to ensure that it is occupied by a person (or persons) who are employed by Wildtracks for security purposes. However, I do not consider it would be reasonable to prevent the occupation of the dwelling by a member of an employee's family. Furthermore, this would not remove the employee's need to access goods and services.
17. Given the appeal site's location outside any settlement, the occupants of the dwelling are likely to be reliant on private car to access goods and services. Thus, I consider the appeal site is not a suitable location for a dwelling, contrary to policies GROWTH2 and HOU5 of the ECLP and the Framework, the requirements of which are set out above.

Noise and disturbance

18. The appeal dwelling comprises part of a larger building within the Wildtracks site which is used as a garage/workshop. The main living accommodation is located on the first floor of the building. To the front of the building is a very modest outdoor area. The dwelling has its own access, with lockable doors. While the dwelling may be insulated, it has not been shown what level of noise the activities within the garage/workshop typically generate, or the level of

noise that would be experienced by occupants of the dwelling as a result of such noise.

19. The appellant states that the garage/workshop is used for general maintenance and cleaning of equipment and that no power tools are used other than an occasional hand tool. However, while this may be true, there is nothing to prevent power tools from being used and I do not consider it would be reasonable to limit the use of such tools by condition. Noise generated by activity within the garage/workshop may be tonal or impulsive, which occupants of the dwelling may find disturbing.
20. Moreover, within the wider Wildtracks site, activities including motocross, rallycross and go-karting are carried out. Noisier motor activities are stated to be restricted by condition and tend to operate on Saturdays and Sundays when demand is at its highest. However, given the proximity of the dwelling to these activities, I consider the noise they generate is likely to be harmful to the living conditions of the occupants of the dwelling.
21. Although one of the occupants of the dwelling works at Wildtracks during the day, and is therefore likely to be carrying out their duties while noisier motor activities are taking place, existing and future occupants who do not work at the site may well be inside the dwelling at such times and are likely to find the noise intrusive, contrary to policy ENV2 of the East Cambridgeshire Local Plan 2015 which seeks to ensure that occupants of dwellings enjoy high standards of amenity, amongst other things.

Outdoor amenity

22. There is a very modest outside space to the front of the dwelling, which is partially enclosed by close boarded fencing, with a grassed area and path leading to the front door. The appellant states the occupants use the area for sitting out and growing plants.
23. The Design Guide Supplementary Planning Document (SPD)(March 2012) advises that in most cases, rear private amenity space should be a minimum of 50 square metres. The outdoor space provided falls well below 50 square metres and is only partially enclosed, and so is not fully private. Although the occupants of the dwelling have access to the Wildtracks site, particularly when the public are not present, it would not provide private outdoor space for the occupants to carry out activities such as hanging out washing.
24. While I saw the space is used for the growing of plants, I consider it highly unlikely that occupants of the appeal dwelling would choose to spend much time outside given the limited extent of the amenity space to the front of the dwelling and the lack of privacy. Consequently, the appeal dwelling fails to provide satisfactory living conditions for its occupants, contrary to policy ENV2 of the ECLP which seeks high standards of amenity and the SPD, the requirements of which are set out above.

Ground (a) conclusion

25. Thus, I conclude that the residential use of the unit conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan.

Ground (f)

26. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
27. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms of any planning permission, by discontinuing any use of the land or by restoring the land to its condition before the breach took place or (b) remedying any injury to amenity which has been caused by the breach. It is clear from the wording of the notice, that its purpose is to remedy the breach.
28. The appellant states that the premises was originally created to provide staff facilities and contained many of the facilities now required to be removed. It is suggested that the use of the premises by the ground staff as a 'staff room' will resume in the event that the notice is upheld and would provide a facility where staff can take a break, use the shower, heat meals and wash their overalls.
29. The appellant also points out that if the residential use of the premises is required to cease, then night security would be required. Given the central location of the building and its proximity to other buildings within the site which would need monitoring, I accept it is likely that the security staff would be located in the appeal building. Furthermore, I accept that the member of staff watching over the site would expect to have access to certain facilities nearby, including toilet facilities and facilities for making refreshments.
30. Although I saw that there is provision elsewhere within the Wildtracks site where staff are able to take a break and have refreshment, provision elsewhere is limited. Given the substantial size of the site, I consider it is reasonable to have such facilities within the appeal building, particularly so that staff watching over the site can access them without having to leave the building during the night.
31. Requiring the removal of the kitchen and bathroom facilities in my view, would therefore be excessive. I shall therefore vary the notice so that it only requires the removal of the beds and residential paraphernalia. Requiring items that relate to the unauthorised use to be removed would not prevent the use of such items in relation to the authorised use of the site and so I consider requiring the removal of residential paraphernalia is not excessive.
32. Thus, the ground (f) appeal succeeds to extent set out above.

Conclusion

33. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeal on ground (f) succeeds to that extent.

M Savage

INSPECTOR