



Appeal Decision

Hearing Held on 14 February 2023

Site visit made on 14 February 2023

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/G1630/W/22/3309571

Regency Court Park, Bamfurlong Lane, Staverton, Cheltenham GL51 6SL

- 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 carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr John Gorman of Regency Court Park Limited against the decision of Tewkesbury Borough Council.
 - The application Ref 22/00240/FUL, dated 28 February 2022, was refused by notice dated 29 April 2022.
 - The application sought planning permission for (A) Retention of holiday touring caravan and camping site incorporating revised layout of hardstanding and landscaping, layout of access and customer car parking. (B) Continued use of caravan site on a year round basis without complying with a condition attached to planning permission Ref 00/5174/1014/FUL, dated 30 October 2000.
 - The condition in dispute is No 3 which states that: No static caravans shall be stationed on the site at any time.
 - The reason given for the condition is: To safeguard the character and appearance of the countryside and the visual amenity and openness of the Green Belt.
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Decision

1. The appeal is allowed and planning permission is granted for (A) Retention of holiday touring caravan and camping site incorporating revised layout of hardstanding and landscaping, layout of access and customer car parking and (B) Continued use of caravan site on a year round basis at Regency Court Park, Bamfurlong Lane, Staverton, Cheltenham GL51 6SL in accordance with the application Ref 22/00240/FUL, dated 28 February 2022, without compliance with condition number 3 previously imposed on planning permission Ref 00/5174/1014/FUL, dated 30 October 2000 and subject to the following conditions:
 - a) The caravan site shall at all times be limited to the area edged red on plan No. TP3425.
 - b) The development shall only be carried out in accordance with the layout shown on Drawing No P204C16-13-RevB and shall thereafter be retained in accordance with the approved layout.
 - c) Prior to the siting of any of the static caravans hereby approved, details of the materials and external appearance of the static caravans shall be submitted to and approved in writing by the local planning authority. The

materials and external appearance shall be implemented as approved and shall thereafter be retained in accordance with the approved materials and external appearance.

- d) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no development shall be carried out within Part 2 (minor development) of Schedule 2 of the Order.

Procedural Matters

2. The application was supported by a plan seeking the stationing of 18 static caravans at the site. Subsequently, the appeal details sought to amend this to 14 static caravans with an amended site layout being put forward. The applicant confirmed at the hearing that it is the scheme for the siting of 14 static caravans which is being sought. This does not materially change the proposal; it simply reduces the number of static caravans at the site. In accepting the amended plan, I do not consider the interests of parties who might wish to comment would be prejudiced. For this reason, I have had regard to this plan in reaching my decision.
3. The original description of development and Condition 1 refers to retention of touring caravans and camping site. The description of development also allows for the site to be used as a caravan site. Although that part of the description of development referring to touring caravans and camping site would become redundant, the parties agree that the second part of the description that allows for use of the site as a caravan site could allow for the stationing of static caravans at the site. However, condition 3 of the original planning permission restricts this. To facilitate the siting of 14 static caravans, the removal of condition 3 imposed upon the original planning permission would be required. It was also confirmed at the hearing that the scheme for 14 static caravans is sought to be controlled by way of the imposition of a planning condition to control the layout of the site.

Main Issue

4. The main issue is the effect that removing the condition would have on the Green Belt as to whether the proposal would represent inappropriate development in the Green Belt, which would have a harmful effect on openness, having regard to the National Planning Policy Framework and the relevant development plan policies.

Reasons

5. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) 2017 seeks, amongst other matters, the protection of the Green Belt from harmful development, restricting development to limited types deemed appropriate by the Framework unless very special circumstances can be demonstrated.

7. Policy GRB4 of the Tewkesbury Borough Plan (TBP) 2022 relates to the Cheltenham-Gloucester Green Belt. This policy restricts development to ensure it continues to fulfil the five purposes of the Green Belt and the essential characteristics of Green Belt which are their openness and permanence. This policy gives substantial weight to any harm to the Green Belt. The site falls within the Cheltenham-Gloucester Green Belt.
8. The caravan site is currently licenced to accommodate up to 50 touring caravans (including motorhomes) at any one time. The original planning permission did not set out any limitations on numbers of units at the site. I saw at my visit that the site was almost fully occupied by caravans and motorhomes, however I acknowledged that my observations reflect a snapshot in time. Further to the original planning permission a lawful development certificate has established the stationing of touring caravans for "... a person's sole place or main place of residence ...". This, in combination with the licence, would allow for year round occupation of up to 50 caravans/motorhomes at the site on a permanent residential basis.
9. A section 78 appeal was dismissed in 2018 for the change of use of land to accommodate 30 static caravans for holiday let use and associated works at the appeal site. Although that Inspector concluded harm to the Green Belt, the decision was reached prior to the lawful development certificate being issued. Furthermore, that scheme related to over twice as many static caravans to that of the case before me.
10. The baseline position is that the site can be used, in planning terms, for an unrestricted number of caravans and/or motorhomes on a permanent year round residential basis.
11. A Green Belt Assessment (GBA) has been undertaken by AMEC Environment & Infrastructure UK Limited commissioned by the JCS. The JCS undertook a qualitative assessment focussing on an assessment against the five purposes of including land in the Green Belt and identified this area as making a 'significant contribution' to the Green Belt purposes.
12. In terms of whether the development would conflict with the purposes of including land within the Green Belt, the scheme would be contained within the existing site, and would not create urban sprawl that might merge with neighbouring towns or encroach into the surrounding countryside. Whilst the development would not be in an urban area, this is an existing site in which a caravan site has been established.
13. In quantitative terms individually the static caravans would be larger in volume to that of touring caravans/motorhomes but there would be a significant reduction in number of units at the site when accounting for the site licence that is in place. The appellants acknowledge that 14 static caravans would have a similar scale and volume overall to that of the quantum of residential touring caravans and motorhomes that can currently be accommodated at the site under the site licence. In this respect I consider the proposal would have a neutral impact in terms of scale and volume.
14. Unlike the current situation whereby the caravans and motorhomes can occupy the entire site, the proposed site layout for 14 static caravans would be set around a central green area of open space. Despite the static caravans being slightly taller, the scheme would be significantly less dense and intensive than

how the site can currently be used or that of the previous scheme for 30 static caravans. Furthermore, the site is currently fully hardsurfaced to accommodate touring caravans and motorhomes. Alternatively, the static caravan scheme would introduce a central area of open space within the site. The static caravans would encircle the central area of open space although this space would not be visually apparent in views from outside the site. Nonetheless, providing open space within the site would be an improvement to openness of the Green Belt compared to that of the existing touring caravans and motorhomes accommodated at the site.

15. Static caravans have a character of permanence having an appearance akin to small, formalised bungalows sited within individual plots hosting associated domestic related paraphernalia. In contrast touring caravans/motorhomes would have a more transient and fluctuating character. I note this has been the view taken by other Inspectors, including that of the Inspector that determined the appeal for 30 static homes at the appeal site. However, the lawful development certificate has established the permanent residential siting for touring caravans/motorhomes at the site and I saw that these hosted various associated domestic paraphernalia. This reduces any weight that can be attributed to the transient or fluctuating nature of touring caravans or motorhomes as this site no longer represents a holiday use of the site and can no longer be considered as a transient site that operates on a short stay basis. The limited movability of the static caravans and their degree of permanence offers little reason for resisting the proposal given the current circumstances.
16. The site can be seen from public rights of way running along the outer western and northern boundaries of the site, although the right of way that abuts the site is currently impassable. I saw that the top parts of the touring caravans/motorhomes are visible from both Badgeworth Lane and Bamfurlong Lane. Otherwise, public views of the site are limited. The roofs of the static caravans would be visible in the same views. Whilst these would appear more residential in character to that of touring caravans/motorhomes I do not consider they would appear significantly more visually harmful than that of the touring caravans/motorhomes.
17. The proposal would not cause any actual or perceived harm to the openness of the Green Belt or the appearance of the countryside. If anything, given the central open space within the site, I consider there would be an actual improvement to openness when compared to how the site can currently be used.
18. The Council suggests that should the appeal succeed, the appellant would be at liberty to site the proposed 14 static caravans together with up to 50 touring caravans/motorhomes at the site. In allowing this appeal a new permission would be created and the original planning permission would remain extant and unaltered along with the conditions attached to it. The appellant would be able to choose which permission to implement.
19. I conclude that the 14 static caravans would not harm the openness of the Green Belt and would not be inappropriate development within the Green Belt or conflict with the purposes of including land within it. The proposal would not conflict with Policy SD5 of the JCS or Policy GRB4 of the TBP and the proposal would not be inappropriate development under the Framework.

20. For these reasons, Condition 3 imposed upon the original planning permission can be removed, however only on the basis that I have found the 14 static caravan scheme, as shown on Drawing No P204C16-13-RevB, to be acceptable in terms of its impact upon the Green Belt. As such, a new planning condition is required to restrict the static caravans at the site to the layout shown on Drawing No P204C16-13-RevB (the scheme for 14 static caravans).

Other considerations

21. Badgeworth Parish Council raise concern that the proposal would not form part of future strategic housing development and would establish a small residential development beyond any recognised settlement. The appeal site lies in open countryside and there are no facilities, services or regular public transport in the vicinity and residents would be car dependent. However, the proposal relates to an existing caravan site and, as such, would not be considered contrary to the strategic housing needs of the area.

Conditions

22. In granting permission under section 73 new conditions may be imposed provided that they do not materially alter the development that was subject to the original permission. In this case, the original planning permission allowed the use of the site as a caravan site on a year-round basis. This would allow for the stationing of static caravans. In granting a new planning permission which is separate from the original permission I have reviewed the conditions previously imposed. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect.
23. Condition 1 requires the pitching of holiday touring caravans and tents to be limited to the area edged red on plan No. TP3425. The purpose of condition 1 is to limit the development in order that it would only take place within the application red line boundary. The description of the original development includes use of the site as a caravan site. Amending the wording of this condition to refer to a caravan site would reflect the amendment sought by this section 73 application.
24. Condition 2 requires hardsurfacing and landscaping to accord with a particular plan. However, the revised scheme would change the layout of the site. Therefore, it is not necessary to retain this condition that, in any event, does not require retention with following the works being carried out.
25. This permission cannot extend the time limit within which the development must be started. The time limit should run from the date of the original permission. However, the original planning permission in this case sought the retention of the development that had taken place and, therefore, was not subject to a time limit for implementation condition. As the development has already started there is no need to introduce a time limit for implementation condition.
26. The statement of common ground does not include a suggested planning condition that would limit the static caravans at the site to 14 or the layout. However, the appellant's statement of case puts forward a suggested condition that would require the development to be carried out in accordance with the

layout shown on Drawing No P204C16-13-RevB (the scheme for 14 static caravans). It was confirmed by the appellant's representative at the hearing that it was the intention for the 14 unit scheme to be controlled by way of imposition of a planning condition. Given that the acceptability of the scheme turns on the number and layout of the static caravans as shown on Drawing No P204C16-13-RevB, I consider it necessary to impose a condition requiring the development to accord with that plan.

27. The statement of common ground indicates an agreement between parties for the details of the materials and external appearance of the static caravans to be subject to local planning authority approval. I consider such a condition to be necessary in the interests of the appearance of the countryside and the Green Belt.
28. The statement of common ground indicates agreement between parties for the removal of Part 2 (minor development) of Schedule 2 of the General Permitted Development Order 2015. This would limit the height of enclosures at the site, amongst other matters. I consider this condition is also necessary in the interests of the appearance of the countryside and the Green Belt.
29. The appellant has suggested a condition to limit the occupation of the static caravans to persons over 55 years old. It is also advocated that the scheme could provide low-cost accommodation and improve the standard of accommodation at the site. Imposing an age restricted condition would vary the terms of the original planning permission and, taking these matters collectively, these would treat the static caravan scheme like open market housing, which they are not. Conditions requiring details of both hard and soft landscaping to be subject to local planning authority approval are also suggested. However, these are inconsistent with the original planning permission and cannot reasonably be imposed under a section 73 application.

Conclusion

30. For the reasons set out above, the appeal should be allowed.

Nicola Davies

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nick Laister - Laister Planning Limited

Nick Mannering - Laister Planning Limited

John Gorman – Applicant

Sean Gorman – Relative of Applicant

FOR THE AUTHORITY:

Paul Smith – Sole Practitioner

Jeremy Patterson – Council's Principal Planning Lawyer

DOCUMENT SUBMITTED AT THE HEARING

Completed Statement of Common Ground