



Appeal Decision

Site visit made on 3 January 2023

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 14th March 2023

Appeal Ref: APP/H0928/W/22/3297896

Horse And Wagon Country Park, Lane from Nentsbury Hall to Haggs House, Nentsbury, Cumbria CA9 3LH

- 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 Mr G Miller against the decision of Eden District Council.
 - The application Ref 22/0090, dated 4 February 2022, was refused by notice dated 1 April 2022.
 - The application sought planning permission for proposed improvements to caravan park without complying with conditions attached to planning permission Ref 08/0180, dated 15 May 2008.
 - The conditions in dispute are Nos 3, 5 and 7.
Condition No 3 states that: *The site shall only be operative as a holiday caravan site during the period 1st March to 15th November in any calendar year. Outwith this period no caravan shall be occupied for any purpose other than the wardens caravan.*
Condition No 5 states that: *Other than the caravan identified as the wardens accommodation, the caravans shall be used for holiday letting purposes only.*
Condition No 7 states that: *The caravans shall not be used as second homes by any person.*
 - The reasons given for the conditions are: *No 3 - In order to preserve the character of the AONB during the winter months and to ensure relief for local residents from the impact of the use on their residential amenity; No 5 - To ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation; and No 7 - To ensure that the caravans remain available for holiday accommodation.*
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Decision

1. The appeal is dismissed insofar as it relates to condition No 3 attached to planning permission 08/0180 dated 15 May 2008.
2. The appeal is allowed insofar as it relates to condition Nos 5 and 7 and planning permission is granted for proposed improvements to caravan park at Horse and Wagon Country Park, Nentsbury CA9 3LH in accordance with the application ref 22/0090 dated 4 February 2022, without compliance with condition Nos 5 and 7 previously imposed on planning permission Ref 08/0180 dated 15 May 2008 and subject to the conditions in the attached Schedule.

Applications for costs

3. An application for an award of costs was made by Mr G Miller against Eden District Council. That application is the subject of a separate Decision.

Preliminary Matters

4. The appeal site has operated as a caravan park since the 1970s and it has a long planning history dating back to 1979 when planning permission (Ref 79/0834) was granted for renewal of permission for existing caravan site and extension of site to provide 10 touring caravans and 26 static sites. More recently, in May 2008, permission (Ref 08/0180) was granted for proposed improvements to caravan park subject to conditions. Condition No 3 allows the operation of the caravan park from the beginning of March until mid November each year. Condition Nos 5 and 7 seek to ensure that the caravans are used for holiday letting purposes only and that they are not used as second homes.
5. The appellant considers that the disputed conditions are not necessary to protect residential amenity and the AONB or to secure the holiday use and to prevent permanent residential occupation of the caravans.

Main Issue

6. Therefore, the main issue is whether or not the disputed conditions are necessary to protect the character of the AONB and local residential amenity and to prevent permanent residential occupation.

Reasons

7. The Horse and Wagon Caravan Park is a long-established caravan park in the centre of the small rural settlement of Nentsbury. It comprises 34 static caravans with internal access roads and amenity grassland. Access is from the A689 via a narrow rural road that serves, and it passes close to, several residential dwellings. Nentsbury comprises some 20 to 25 dwellings, the majority of which are traditional stone-built properties and several of which are in close proximity to the caravan park. The caravan park is in the countryside and the North Pennines Area of Outstanding Natural Beauty (the AONB).

Condition No 3 – occupancy period

8. Condition No 3 limits the operation of the caravan park, and thereby the occupation of the holiday caravans, to 8.5 months each year between 1 March and 15 November. The reason for the condition relates to the preservation of the character of the AONB during winter and to ensure relief to local residents from the impact of the use on their residential amenity. The proposal seeks to extend the occupancy period to between 1 March to 7 January.
9. In relation to the AONB, the Inspector in the earlier dismissed appeal (Ref APP/H0928/A/06/2029409) noted that the appeal site lies on a valley floor and, although screened from views from the highway (the A689) by a row of trees along its north eastern boundary, it is not well screened from surrounding hills or from the south and west. The Inspector found that the caravan site was an unwelcome visual intrusion in the AONB. Notwithstanding the passage of time, and based on what I saw, this remains an accurate description of the caravan park and its visibility in the AONB landscape.
10. The previous Inspector did not go into any great detail but nevertheless concluded that an increase in activity over winter would inevitably adversely affect the undeveloped character of the AONB. I understand that the appeal proposal relates to a smaller number of units than the dismissed scheme. However, in the absence of effective screening by topography or vegetation,

the extended operation of the site during winter would result in an increase in noise and visual disturbance, including people and vehicles, during what is currently a quiet time of year in this location. The occupation of the caravan park through the relatively undisturbed and darker winter months would be detrimental to the special qualities, tranquillity and dark skies of the AONB.

11. I note the suggestion that, if the appeal was allowed and the occupancy period was extended, there would be an opportunity to impose additional planning conditions to mitigate the adverse visual effects. The Council accepts that schemes of lighting and landscaping could help protect amenity and potentially improve the relationship between the caravan park and its surroundings.
12. No plans have been provided to illustrate landscaping proposals. Taking into account the layout of the caravan park and the close spacing of caravans including to site boundaries, it is not clear that effective screen planting could be incorporated into the site or that caravan owners would not seek to remove any future trees on grounds relating to maintenance and safety. Moreover, in the absence of lighting proposals, and as the caravans are owner occupied, there is little evidence that the adverse effects of lighting during dark winter months could be effectively minimised. Nevertheless, while I am not entirely satisfied that the adverse impact of the proposed extended winter opening on the AONB could be adequately addressed by the imposition of conditions, I am mindful that the previous Inspector considered that the harm to the AONB was not enough on its own to warrant dismissal of that appeal.
13. Turning to impacts on residential amenity, there is little before me in terms of the capacity or occupancy rates of the caravans, the numbers or types of people who visit the site, or for how long they stay. Nevertheless, even at less than full occupancy, taking into account the size of the hamlet, the caravan park will result in a significant increase in the population of the area, with associated activity, during the operational period each year.
14. The third party representations evidence that the existing operation of the caravan park, in close proximity to dwellinghouses, results in detrimental impacts on the residential amenity of the nearby occupiers. Particular concerns include noise and disturbance, including vehicular movements, and the behaviour of some of the caravan park occupiers including those with dogs. However, the local residents acknowledge that the caravan park has operated for many years and they accept that detrimental effects on their residential amenity is an inevitable consequence of living near it.
15. The current occupancy period allows the local residents to enjoy their properties and the local area free from the noise and disturbance of the caravan park for several months each year. The evidence indicates that the local community can tolerate the disruption that arises from the site operation because there is a respite period in winter when the peaceful rural character of the hamlet is restored. In this regard, the restricted occupancy period results in a balance between the conflicting residential and tourism uses in this location.
16. The Inspector in the earlier dismissed appeal also considered the effect of a longer operational season on residential amenity. He was in no doubt that the use of the caravan park, including vehicle movements and the activities of visitors, would be an unwelcome intrusion to nearby residents. He concluded that an increased occupancy period would inevitably harm the living conditions of neighbouring and nearby properties. The previous appeal related to a larger

number of holiday units, including 10 touring pitches, and it sought year round opening. It therefore differs from the appeal proposal which would be 10.25 month opening and with no touring caravans. Even so, given the elapse of time and the changing patterns of tourism, and as there would be little to prevent all of the caravans from being simultaneously occupied, I cannot be certain that the proposal would result in significantly fewer caravan occupiers or less impact during extended winter opening. Consequently, based on the evidence before me, the previous dismissed appeal, albeit a finely balanced judgement, does not weigh in favour of the proposal.

17. While the caravans may be owner occupied, the evidence is that the operation of the caravan park results in adverse impacts on residential amenity. A longer occupancy period would extend the duration of adverse effects on the living conditions of the nearby occupiers. Even if occupancy levels would be lower during extended winter opening than during the peak periods, there would be a proportionately greater impact taking into account the baseline of the quieter winter months in the AONB. The proposed longer occupancy period would result in cumulative adverse impacts on the nearby residential occupiers.
18. If the appeal should fail, the fallback position would not be the current unauthorised use of the caravan park but its operation in accordance with the planning permission. While I understand there may be some difficulty in this regard due to the owner/occupier status of the caravans, nevertheless the extant planning permission is a valid fallback position. If the caravans were used for holiday letting purposes then there could be a higher turnover of a greater number of visitors and a different visitor demographic than arises from owner/occupier use. However, while holiday letting might result in different or greater impacts than the current unauthorised use, there is little substantive evidence that the fallback would result in materially greater impacts than owner/occupier use which itself harms local residential amenity. The fallback carries limited weight in favour of an extended occupancy period.
19. Caravan sites do operate year round elsewhere in the AONB. Wild Rose Park is a large and relatively self-contained tourism site that is not surrounded by residential development. A 2 week closed season had originally been imposed there to discourage permanent residential use and to reinforce holiday use, but there is little evidence that it was necessary to protect residential amenity. The White Gate site is apparently comparable in size to the appeal site, but it is not in a sensitive AONB location and it is buffered from residential development. The nearby Hudgill caravan park is in a more isolated location without public roads and it is not in a hamlet. The 3 unit Nutwood scheme is small and relatively isolated from residential development. The Augill Beck scheme is in a secluded woodland setting relatively isolated from residential development. None of these schemes is demonstrably directly comparable to the appeal site including in terms of scale, location and relationship to residential development. In this regard, the appellant acknowledges that the relationship of the appeal site to neighbours is somewhat unusual as is its particular AONB setting. Schemes elsewhere, in different surrounding contexts, do not provide a justification for the appeal.
20. Therefore, I conclude that condition No 3 is necessary in the interests of the living conditions of the neighbouring residential occupiers and the AONB landscape. As the proposed variation of condition No 3 would harm residential and visual amenity, it would conflict with Policies DEV5, EC4, ENV2 and ENV3

of Eden Local Plan 2014-2032 (the LP). These require, among other things, that proposals protect residential amenity and the distinctive rural AONB landscape, including its tranquillity and dark skies.

Condition Nos 5 and 7 – caravan occupancy

21. Condition No 5 requires the holiday caravans to be used for holiday letting purposes only. Condition No 7 requires that the caravans shall not be used as second homes by any person. The justification for the conditions is to ensure that the caravans are not used for permanent residential occupation and they remain available as holiday accommodation. The appeal seeks to vary condition No 5 to specify that the caravans shall be used for holiday purposes only and it seeks to remove condition No 7.
22. The caravans are currently owner occupied and they are not available for holiday letting purposes. The proposed variation of condition Nos 5 and 7 would effectively regularise the existing unauthorised operation of the caravan park so that the owner/occupiers could continue to use their caravans for holidays, including for extended periods of time. However, the Council was originally concerned that the removal of condition No 7, which would allow second home use, would make it difficult to establish and enforce that caravans were not used as primary places of residence.
23. The parties agree that the term 'second home' should be given its ordinary interpretation, namely that it would be a home that is not a primary residence, such as would allow for occasional occupation including as a holiday home. Therefore, on the basis that a second home is not a primary residence, a condition requiring that the caravans are not used as second homes is not necessary to ensure that they are not occupied as a person's sole or main residence provided this is achieved by other conditions.
24. Condition Nos 6 and 8, which are not in dispute, aim to ensure that the holiday caravans are not permanently occupied by specifying that they are not used as a sole or main place of residence and by requiring a register detailing the occupancy of the caravans. Collectively, condition Nos 6 and 8 and the proposed variation to No 5 would ensure that the caravans were not used as main residences and they were used for holiday purposes only. The Wild Rose Park appeal decision (Ref APP/H0928/A/13/2192345) confirms that the imposition of conditions to ensure caravans would not be occupied as a sole or main residence and for the site operator to maintain a register of occupiers is commonplace, clear to caravan owners and occupiers and enforceable.
25. In its evidence to the appeal, the Council accepts that the operation could in theory be rationalised in relation to the status of occupants and the potential for the caravans to be occupied purely for holiday purposes. Consequently, while it maintains its concerns in relation to an extension of the occupancy period, it considers that the variation of condition No 5 and the deletion of condition No 7 could be acceptable.
26. I accept that the original intention of the extant planning permission was the operation of the caravans on a holiday letting basis rather than in private ownership as second or holiday homes. However, given the evidence in relation to the possible greater harm to residential amenity that could arise from a holiday letting use, and accepting that both holiday letting and owner/occupier modes of operation are holiday uses that contribute to the local economy, there

appears to be little robust or compelling justification to prevent the use of the caravans as holiday homes by the owner occupiers.

27. Therefore, as disputed condition Nos 5 and 7 are not necessary to ensure the holiday use of the caravans or to prevent their permanent residential occupation, I shall replace these conditions with a single new condition No 5 on the Schedule below. The new condition shall ensure that, except for the warden's accommodation, the caravans shall be used for holiday purposes as holiday caravans only. The variation of condition Nos 5 and 7 would not conflict with the tourism aims of the development plan.

Other Considerations

28. The AONB is a popular tourist destination, as evidenced by the number of tourism sites in the area. I note the suggestion that the restricted operating season places the caravan park at a disadvantage compared to caravan parks that operate year round. However, there is little evidence of demand for winter opening in this location or that, taking into account that the caravans are owner occupied, the existing closed season compromises the financial viability of the caravan park.
29. The parties dispute the relevance of LP Policy EC4 to the appeal scheme. Irrespective that the caravan site already exists, it appears to be a large scale tourism development for the purposes of the policy and extended opening could result in a substantial increase in visitor numbers in this location. However, even if Policy EC4 was not applicable to the proposal, it is not the only relevant development plan policy and the application was not refused only on grounds relating to conflict with it.
30. Visitors to the caravans during the proposed extended winter opening would provide some support to local shops and services, including food and drink establishments. Taking into account the scale of the proposal, the contribution to the local economy carries limited weight in favour of the proposal.
31. The Council suggests that the removal of condition No 7 and the variation of condition No 5 should not be dealt with separately because the appeal relates to condition Nos 3, 5 and 7 simultaneously. However, condition No 3 was imposed for different reasons to condition Nos 5 and 7 and, as acknowledged by the Council's email dated 18 April 2022, the period of occupancy of the caravan park is a separate and severable issue from the caravan occupancy restrictions.
32. The evidence indicates that proposals in this location may have the potential to result in nutrient pollution impacts on Habitats sites. The Council considers that the proposal relates to the operation of an existing caravan park, it would not be a new development or use and it would affect nutrient neutrality. On the basis of the evidence, I am satisfied that the continued operation of the site, with no extended occupancy period, would not create a new source of water pollution and there would be no impact on the water quality of a Habitats site.

Conditions

33. The Planning Practice Guidance (the PPG) sets out that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission. The Council has reviewed the conditions imposed on planning permission Ref 08/0180 and it has suggested

planning conditions in the event the appeal was allowed. I have assessed these against the tests set out in the National Planning Policy Framework.

34. As the use is ongoing, a condition limiting the timescale for implementation of the permission is not necessary. However, a condition specifying the approved plans is necessary in the interests of certainty. A condition specifying the external finish of the caravans is necessary in the interests of visual amenity.
35. I have not varied disputed condition No 3 as it is necessary in the interests of residential amenity and to protect the character of the AONB. I have however removed the disputed conditions Nos 5 and 7 and imposed a new condition No 5 to restrict the occupancy of the caravans for holiday purposes only. Condition Nos 4, 5, 6 and 8 are necessary to specify the warden's accommodation, to ensure the holiday use of the holiday caravans and to prevent their permanent residential occupation.
36. Condition No 10 relates to landscaping. Notwithstanding the passage of time, as a landscaping condition was imposed on the original permission and there is little evidence that it has been discharged, and taking into account the surrounding context, such a condition remains relevant and necessary. However, in imposing this condition I have amended the wording to ensure that the details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively and it is not possible to use negatively worded conditions to secure the approval and implementation of landscaping before the development takes place or before first occupation of the caravans. The condition will ensure that the development can be enforced against if the requirements are not met.
37. Suggested condition No 11 relates to a scheme of lighting. The PPG indicates that new conditions can be imposed if they would not materially alter the development subject to the original permission and they are conditions that could have been imposed on that original permission. In this case, the evidence indicates that a scheme of lighting would be necessary in association with extended winter opening, when artificial lighting would be particularly intrusive and detrimental to the AONB. However, I am dismissing the appeal insofar as it seeks an extended occupancy period and condition No 11 is not demonstrably necessary and relevant to the ongoing use. Therefore, I have not imposed it.

Conclusion

38. For the reasons set out above, I conclude that the appeal should be dismissed insofar as it relates to condition No 3. However, in relation to condition Nos 5 and 7, I conclude that the appeal should be allowed. I will therefore vary the planning permission by deleting condition Nos 5 and 7 and imposing a new condition No 5 to secure the holiday use of the caravan site and subject to the conditions set out in the Schedule below.

Sarah Manchester

INSPECTOR

SCHEDULE OF CONDITIONS

- 2) The development hereby permitted shall be carried out in accordance with the details and plans hereby approved.
- 3) The development hereby approved shall only be operative as a holiday caravan site during the period 1 March to 15 November in any calendar year. Outwith this period no caravan shall be occupied for any purpose other than the warden's caravan.
- 4) The warden's caravan identified in the application documents and identified on drawing Ref 07/26-PI as 'owners caravan' shall be used only for accommodation by a person acting as a warden for the caravan site (and his/her immediate dependents during his/her occupation) for the management and security of the caravan site and not for permanent unrelated residential use.
- 5) Other than the one caravan to be used as the warden's accommodation, the caravans shall be used for holiday purposes as holiday caravans only.
- 6) Other than the caravan identified as the warden's accommodation, the caravans shall not be occupied as a person's sole or main place of residence.
- 8) The site operator shall maintain an up to date bound register detailing the occupation of the holiday caravans hereby permitted, including those that are owner occupied, at all times and shall make it available for inspection by the local planning authority upon request. The register shall comprise of consecutively numbered pages, which shall be kept in order and each entry shall contain the name and address of the principal occupier together with the dates of their occupation.
- 9) Prior to the replacement of any caravan on the site, the details of the external colour and finish to each new caravan shall be agreed in writing by the local planning authority. The approved details shall be implemented in full and retained thereafter.
- 10) Unless within 3 months of the date of this decision, a scheme of landscaping is submitted in writing to the local planning authority, and unless the approved scheme is implemented within the next available planting season following the local planning authority's approval, the occupation of the caravans shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The landscaping scheme shall include, but it shall not be limited to, details of the following:

- a) Tree and shrub planting, including groups and individual specimens, and planting densities;
- b) Specification/ age/ heights of trees and shrubs to be planted;
- c) Existing trees and shrubs to be retained or removed;
- d) And tree surgery/management works proposed in relation to retained trees and shrubs;
- e) Any remodelling of ground to facilitate the planting;
- f) Timing of the landscaping;

g) Protection, maintenance and aftercare measures.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

END