



Appeal Decision

Site visit made on 12th April 2023

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2023

Appeal Ref: APP/X0360/W/22/3309433

Broadacre Place Broadcommon Road, Wokingham, Hurst RG10 0RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Miss Lisa Spiers against the decision of Wokingham Borough Council.
 - The application Ref 222377, dated 2 August 2022, was approved on 22 September 2022 and planning permission was granted subject to conditions.
 - The development permitted is the permanent retention of existing mobile home to provide groom's accommodation.
 - The condition in dispute is No 2 which states that: The mobile home hereby approved shall only be occupied by a person(s) solely or mainly employed for the care of polo ponies on the land, and any dependants of that person(s). When the land ceases to be used for the keeping of not less than five polo ponies or is used for the keeping of anything other than polo ponies, the use of land for the stationing of a mobile home for residential purposes shall cease, the mobile home (and any footings) shall be removed and the land, including the parking area, shall be restored to its original condition before the original development took place within three months of the use ceasing.
 - The reason given for the condition is: The site is within an area where a dwelling would not normally be permitted and permission is only granted because the dwelling is intended to serve the specific needs of the site, being the need to care for polo ponies. The land also comprises an adequate acreage for polo pony stabling, but it would be inadequate for other forms of equestrian use, resulting in an unsustainable use at the existing level of intensity. Relevant Policies: NPPF (Paragraph 79) and Core Strategy: CP3 and CP11.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reasons in the condition refer to Paragraph 79 of the National Planning Policy Framework 2021 (the Framework). However, it is clear from the submissions that the Council is referring to Paragraph 80 of the Framework. No party would be prejudiced by me having regard to Paragraph 80 rather than 79 in this instance.

Background and Main Issues

3. The mobile home has been on the site since 2009¹, but was agreed temporarily for five years. The temporary permission was also personal to the appellant and the mobile home was required to be removed following the temporary period

¹ Council Planning reference F/2009/1060

ending. A further temporary consent for another 5 years was permitted in 2015².

4. The 2020³ permission was granted to allow the mobile home to be permanently positioned on the land as groom's accommodation. The permission was granted with a restriction on the mobile home to be occupied by a groom employed by the appellant. The appellant was named within the condition. Also, the condition required the removal of the mobile home and the land returned to its former condition once the use ceased or if it was not being used for the keeping of not less than five polo ponies.
5. The 2022 application was a Section 73 application to remove or vary Condition 2 of the 2020 permission. The application was approved forming a second separate permission with revised wording to the condition. The 2022 condition no longer refers to the appellant by name but ties the occupancy of the mobile home to a person solely or mainly employed to caring for the polo ponies on the land. It also retains the requirement to remove the mobile home and return the land to its former condition if the use of land is used for anything other than the approved use or if the number of polo ponies being kept on the land is less than five.
6. The appeal has been made in respect of the condition imposed on the 2022 permission, and the appellant contends the condition does not pass the 6 necessary tests for planning conditions. For these reasons, it should be removed in its entirety. The appeal relates to the 2022 condition; however, the appellant has indicated that the original contentions put forward in planning statement remain applicable. Also, in the event that the condition is considered necessary, a varied condition wording is also proposed. I have considered the appeal on this basis.
7. The Council indicate that the condition satisfies the tests set out in Paragraph 56 of the National Planning Policy Framework (the Framework). The condition restricting the occupancy of the mobile home at this location, and its removal once the use ceases, was attached to ensure the proposal does not undermine the Council's housing strategy and due to the exceptional circumstances of the case.
8. In view of the above, and the evidence before me, the main issues are
 - Whether condition is necessary, relevant to planning and the development permitted, enforceable and reasonable with regard to the location of the site and the Council's housing strategy.

Reasons

Suitable location for housing

9. There is no dispute between the parties that the appeal site is located outside of any settlement and lies within the open countryside as defined in Policy CP9 of the Wokingham Borough Core Strategy 2010 (Core Strategy). Although there are dispersed residential buildings and rural buildings within proximity of the site, it is outside any settlement and not directly adjoined or adjacent to any built form. As such, in my judgement the site is isolated in the strict definition

² Council Planning reference F/2015/0917

³ Council reference 201418

- of the word and in respect of being remote from a settlement. The land includes a hardstanding, grazing field, stables, a hay barn, storage building, shed, an exercise track and the mobile home.
10. Policy CP11 of the Core Strategy refers to development that would be permitted outside the settlement limits. This is limited to development that contributes to diverse and sustainable rural enterprises or other countryside-based enterprises and activities, which encourages the enjoyment in the countryside and does not lead to excessive encroachment or expansion of development away from the original buildings; and is contained with suitably located conversions or replacement buildings.
 11. The proposal would be a mobile home that would be used for residential purposes in association with recreational use of the land for the private keeping of polo ponies. In this respect, the proposed scheme complies with criterion 1 and 2 of Policy CP11 of the Core Strategy by proposing a scheme that would be a countryside-based activity, which encourages the enjoyment in the countryside. The mobile home would be located near to the existing built form on site and therefore does not lead to excessive encroachment or expansion of development away from the original buildings.
 12. However, the proposed retention of the mobile home would technically conflict with criterion 3 of Policy CP11 of the Core Strategy, which requires the proposal to be contained within suitably located building which is appropriate for conversion or replacement. However, Policy CP11 of the Core Strategy is not entirely consistent with Paragraph 80 of the Framework. Paragraph 80 permits isolated homes where there is an essential need for a rural worker, but it does not restrict the development to replacement dwellings or conversions. As such, despite the technical conflict with the Policy CP11 of the Core Strategy, material considerations would indicate it is acceptable in principle to allow a new rural worker's dwelling in an isolated location such as this.
 13. A condition typically needs to be applied in the instance where there is a policy objection to permitting a proposed use on an unconstrained basis. The appellant has not put forward any substantive reasoning why the mobile home could remain in this location without an occupation restriction. Consequently, it is necessary and reasonable to condition the permission, restricting the occupancy use of the mobile home to a person caring for the polo ponies on the site. If the condition were to be removed, the proposal would be an unjustified residential development contrary to the housing strategy policies and Paragraph 80 of the Framework.
 14. In respect to the minimum number of polo ponies needed, and the requirement to remove the mobile home, it is necessary to consider the justification provided in the Planning Statement and Equestrian Appraisal with the parent application⁴. It is set out that the use of the land does not include a rural enterprise or business. The functional need to be on site is primarily to care for the polo ponies and provide additional security. In particular, the welfare needs for polo ponies are greater than other horses. Also, the Standard Man Days (SMD) needed for a worker are based on a groom caring for seven polo ponies in line with the appellant's needs as a semi-professional polo player over a calendar year. There were also no alternative forms of accommodation nearby.

⁴ Council reference 201418

15. Based on the evidence before me, a general recreational use for the keeping of polo ponies would not normally justify the need for a dwelling. Furthermore, without the permission being a personal consent, the requirement for a minimum of five polo ponies, and the removal of the mobile home, are fundamental to the justification for the siting of the mobile home. In this regard, this would be an exceptional circumstance where the minimum number of polo ponies and the removal of the mobile home following the cessation of the private recreational use would be necessary to make the scheme acceptable. As such, based on the evidence before me, the minimum number of five polo ponies set out in the condition, and the removal of the mobile home within a specific time period, is considered to be necessary, reasonable and relevant to the development being permitted.
16. I have had regard to whether the condition is sufficiently precise and enforceable. The land associated with the planning permission is identified via the plans condition. As such, reference to the land is sufficiently clear and precise, and it is not necessary to amend the wording. Furthermore, the use of the phrase of 'not less than five polo ponies' suggests that the number of polo ponies is a minimum, not a maximum. Therefore, it would not prevent the appellant from exceeding five polo ponies being kept on the land.
17. With respect to concerns over the polo ponies being kept at various locations for temporary periods, it would be for the Council to investigate any potential breach of condition on a case-by-case basis. However, the polo ponies not being on the land due to polo tournaments and visits to the vets would be expected and is unlikely to constitute a breach of condition. This would especially be the case if there are sufficient reasons for their absence and it can be demonstrated that they are primarily kept on the land. As such, the condition is sufficiently precise and enforceable in respect of the number of polo ponies being kept at the site as well as the removal of the mobile home within a specified time period if the use were to cease.
18. Accordingly, the condition is necessary, relevant to the development permitted, precise, enforceable and reasonable to ensure the siting of the mobile home for residential purposes is justified. Despite the technical breach with CP11 of the Core Strategy, the mobile home with the condition is compliant with aims and objectives of the Policies CP9 and CP11 of the Core Strategy and paragraph 80 of the Framework.

Other Matters

19. The Council's Statement of Case and Officer Report refer to protecting the character of the countryside, but this appears to be linked to protection of the countryside from inappropriate residential development rather than effect on the character and appearance of the area. I have considered the effect on the removal of the condition against the Council's housing strategy, and there is no substantive evidence before me to suggest that there would be any harm to the character and appearance.
20. I have had regard to the appellant's concerns with how the Council handled the planning application, relating to a lack of communication before determining the application and replacing the original condition with a varied wording. However, how the planning application was handled and whether the Council acted unreasonably is outside the remit of this appeal and there are separate procedures, such as a costs application which can consider procedural matters

relating the process. This would not, however, affect my conclusions on the main issues.

21. I have had regard to amending the condition in line that suggested by the appellant. However, for the reasons set out above, the imposed condition is acceptable and passes the 6 necessary tests for planning conditions.

Conclusion

33. For the reasons given above, the proposal without the disputed condition would not accord with the development plan when taken as a whole. There are no material considerations worthy of sufficient weight that indicate the appeal should be determined other than in accordance with it. The appeal is accordingly dismissed.

M. P. Howell

INSPECTOR