



Appeal Decision

Site visit made on 23 May 2023

by Jane Smith MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal Ref: APP/C1435/W/22/3304185

Eastbourne Heights, Oak Tree Lane, Eastbourne BN23 8FB

- 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 Ben Landreth (Starglade Parks Ltd) against the decision of Wealden District Council.
 - The application Ref WD/2019/2599/FA, dated 6 December 2019, was refused by notice dated 31 January 2022.
 - The application sought planning permission for 'variation of conditions 1 & 2 of WD/2017/2472/FA (removal of conditions 1 & 2 of K/1955/0500 (caravan site)) to increase the number of residential units to 113', without complying with conditions attached to planning permission Ref WD/2017/2472/FA, dated 15 March 2018.
 - The conditions in dispute are Nos 1 & 2 which state that:
 1. *No more than 103 caravans shall be stationed on the land at any time.*
 2. *The caravans shall only be stationed in strict accordance with the layout shown on the 'Site Layout Plan' date stamped 23 November 2017.*
 - The reasons given for the conditions are:
 1. *To enable the Local Planning Authority to regulate and control the development of land and to preserve the visual amenities of the locality, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies GD2 EN11, EN27 and DC22 of the adopted Wealden Local Plan 1998.*
 2. *To allow the Council to control the development having regard to impact on the Coastal Levels landscape area, in relation to good design of layout and for the provision of appropriate amenity to residents having regard to Policies EN11, EN27 and EN22 of the Wealden Local Plan.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made under Section 73 of the Town and Country Planning Act 1990 for variation of conditions imposed on planning permission reference WD/2017/2472/FA (2018 permission). This permitted up to 103 caravans, to be laid out in accordance with a Site Layout Plan dated 23 November 2017. The 2018 permission was itself for variation of an earlier approval, reference K/1955/0500, which had permitted an additional fifty caravans at an existing caravan site.
3. The application seeks variation of conditions attached to the 2018 permission as set out in the banner heading above. The effect of the variation would be to increase the maximum number of mobile homes on the site by 10 units, from

103 to 113. A revised site layout is also proposed, which would replace the Site Layout Plan which is the subject of condition 2.

4. The plans were amended prior to the Council's decision, reducing the number of additional mobile homes proposed and varying the proposed layout. I have considered the appeal on the basis of drawing number 1436-0006-03, which is the plan upon which the Council based its decision. In the banner heading above, I have used the description of proposed development given on the Council's decision notice, since this more accurately reflects the amended proposal.

Main Issues

5. The main issues are:

- whether the conditions are reasonable or necessary in terms of the suitability of the site for additional mobile homes in principle, having regard to its location and any proposed environmental benefits,
- the effect of varying the conditions on living conditions for existing and future occupiers of the site, in terms of the availability of communal open space and privacy, and
- whether suitable provision would be made for affordable housing.

Reasons

Location

6. The appeal site is an established permanent residential mobile home estate, on the edge of the built-up area of Eastbourne, but outside the development boundary defined in the Wealden Local Plan 1998 (WLP). Access is through an adjacent housing estate and there is additional housing across the railway line to the north.
7. The housing to the north includes new housing which the evidence indicates was part of a planned urban expansion, included in an emerging Strategic Sites Local Plan. Although the appeal site was also within the same strategic growth area, this emerging Local Plan was withdrawn prior to adoption. I have therefore given it no weight.
8. Although WLP Policy DC22 restricts the provision of mobile homes in the countryside, it states that the rationalisation of existing residential mobile home sites may be permitted where significant environmental benefits would result. On that basis, even if all locations outside development boundaries are regarded as countryside for purposes of the WLP, Policy DC22 allows for rationalisation of the site in principle. However, such rationalisation is only supported by the policy where significant environmental benefits would result.
9. The supporting text to Policy DC22 indicates that the reference to environmental benefits should be interpreted in terms of improvements to local visual amenities. The appeal site is generally well maintained with mown grass and shrubs in the communal areas and a variety of patios and garden areas around individual mobile homes. It is well integrated with the character and appearance of the wider area at present. However, the proposal would reduce the extent of open space within the site, without any compensatory environmental improvements.

10. For the above reasons, I conclude that the conditions in question are reasonable and necessary, since the proposal would not be a suitable location for additional mobile homes in principle, given the lack of any proposed environmental benefits. For that reason, it would conflict with the relevant part of WLP Policy DC22 which, amongst other things, allows for the rationalisation of existing residential mobile home sites only where significant environmental benefits would result.
11. I acknowledge that the appellant disputes whether any weight should be given to Policy DC22 and return to this matter below.

Living Conditions

12. The existing mobile homes are laid out on relatively narrow plots with the limited intervening space used as private gardens, patios and driveways. The additional mobile homes would be located within an existing open space in the middle of the estate. This area is shown on the Site Layout Plan which is the subject of Condition 2 of the 2018 permission and therefore its retention as open space is required under the terms of that condition.
13. The majority of the open space is laid to grass, with some modest parking areas around its periphery. It is not otherwise enclosed and provides an open, communal area in the heart of the estate. It is very easily accessible to occupiers of the surrounding mobile homes and representations from existing occupiers indicate that it is used as a recreational and community space, as well as an assembly point in the event of fire.
14. The proposed layout would significantly reduce both the amount of open space within the site and the degree to which it is open and accessible to the surrounding occupiers. It would be significantly smaller and largely located behind the additional mobile homes. As such, the outlook across the space from many of the surrounding mobile homes would be significantly curtailed, as would the points from which it can easily be accessed for recreational purposes. The space would also be less suited to recreational or community activities involving any significant number of residents, due both to its reduced size and the potential disturbance to occupiers of the new mobile homes.
15. While the remaining open space would ostensibly correspond with local standards for new housing developments, the Council's Officer Report makes clear that those standards relate to new bricks and mortar dwellings. Such dwellings would generally benefit from more generous private amenity space, such as enclosed rear gardens, compared to the limited plots available around each mobile home. Therefore, the required amount of communal open space is not directly comparable. There is furthermore no evidence that the proposed open space complies with any other relevant space standards included in the development plan.
16. The proposed open space would fall significantly short of the 10% of site area sought under site licensing requirements. While these requirements are not part of the development plan, and fall outside the direct scope of the planning system, they are tailored to the particular characteristics of a residential mobile home estate. Those characteristics differ in a number of respects from bricks and mortar housing, notably in terms of typical plot sizes and separation between individual homes, as seen at the appeal site. Licensing requirements furthermore provide an objective indication of the required amount of

communal open space, under a separate but relevant regime. On that basis, the shortfall against those requirements is a consideration weighing against the proposed increase in number of mobile homes.

17. Evidence from interested parties highlights that existing occupiers include older people and people with disabilities, some of whom are unable to walk any significant distance. With this in mind, when considering this aspect of the appeal I have had due regard to the relevant aims of the Public Sector Equality Duty (PSED), as set out in s149 of the Equality Act 2010.
18. Although there are alternative open spaces within the wider area, the reduced availability of open space on the site would disproportionately affect residents who are unable to walk far, or drive, due to age or disability. The nearest alternative open space is also very clearly designed for children's play, so does not cater for older residents seeking a quiet seating area close to their homes. The reduced availability of open space would therefore disproportionately and adversely affect the quality of the residential environment for those occupiers who are unable to make use of alternative open spaces for reasons relating to age or disability.
19. Although the site is outside the development boundary, it is closely related to the adjacent built-up area of Eastbourne. While the open space is not publicly accessible, it contributes to the amenities of the occupiers of more than 100 mobile homes. On that basis, the provisions of Policy EN18 are relevant, notwithstanding the location of the site outside a development boundary. The National Planning Policy Framework 2021 (the Framework) furthermore supports the availability and safeguarding of open spaces, notably in paragraph 93 which advocates a positive approach to the provision and use of shared spaces to enhance residential environments and paragraph 130 which advocates the creation of places with a high standard of amenity for existing and future users.
20. With regard to privacy, the proposed layout would be similar to other parts of the site, where mobile homes face each other across the access roads. While the mobile homes fronting the open space currently lack facing neighbours, they are not screened from the access road or from the open space itself. Their standard of privacy would therefore not be materially reduced and would remain comparable to that experienced elsewhere on the estate.
21. Nevertheless, for the reasons set out above, I find that the proposed amount of open space and its more enclosed layout would be unacceptably harmful to the living conditions of existing and future occupiers. It would furthermore be disproportionately harmful to those whose mobility is restricted due to age or disability, contrary to the aims of the PSED.
22. I therefore conclude that the conditions in question are reasonable and necessary, to avoid harm to living conditions for existing and future occupiers of the site, in terms of the availability of communal open space. As such, the proposal would conflict with policies EN18 and EN27 of the WLP and relevant paragraphs of the Framework. These policies, amongst other things, resist the loss of open areas that contribute to the amenities of the locality and require that developments ensure a satisfactory environment for future occupants, including adequate provision of appropriate landscaped amenity area.

Affordable Housing

23. Policy AFH1 of the Affordable Housing Delivery Local Plan¹ (AHDLP) sets a threshold of five net additional dwellings, above which a contribution towards affordable housing is required. In response to the provisions of paragraph 64 of the Framework, which post-dates the AHDLP, the Council confirms that contributions are now sought in relation to proposals providing at least 10 net additional homes (i.e. the equivalent of major development, as defined in the Framework).
24. There is no dispute between the parties that the proposed variation to condition 1 would trigger a requirement for affordable housing linked to the additional 10 mobile homes. Nor is there any disagreement that policy AFH1 applies to mobile homes as well as to bricks and mortar housing. I further note that the Framework makes no such distinction in relation to the definition of affordable housing. On that basis, affordable housing is required in accordance with Policy AFH1, which in this case would take the form of a financial contribution to fund off-site provision. The Council's justification for seeking a financial contribution includes that Registered Providers will not take on mobile homes and no evidence has been presented to the contrary.
25. No financial contribution is offered by the appellant, on the grounds that the additional mobile homes would themselves provide a form of affordable housing. Justification has been provided in the form of sales price data for mobile homes, bungalows and other homes providing a similar amount of accommodation, within 10 miles of the appeal site. Based on that evidence, the Appellant considers that the proposal complies with the Framework's definition of affordable housing, which encompasses low-cost homes for sale at a price equivalent to at least 20% below local market value.
26. The Framework includes low-cost homes for sale within part d) of its definition of affordable housing (Other affordable routes to home ownership). Unlike part c), this does not include any requirement for a mechanism to ensure housing remains at a discount for future eligible households. However, the Framework does make clear that all the defined categories of affordable housing comprise 'housing for sale or rent, for those whose needs are not met by the market'. This is an over-arching requirement, which must be satisfied in addition to the more detailed requirements set out in categories a) to d).
27. No substantive evidence has been provided that the additional mobile homes would be purchased by people whose needs are not met by the market. While examples have been given of situations in which mobile homes may enable ownership by those who cannot purchase homes in the open market, reference has also been made to future residents downsizing from more substantial family homes, likely to have a significantly greater value. No mechanism is proposed to limit the availability of the additional units to those whose needs are not met by the market. Therefore, based on the evidence before me, it appears equally likely that the mobile homes in question would be occupied by people whose housing needs could be met by the market but who have chosen to move into a mobile home estate for other reasons.
28. For this reason, while I accept that the proposed mobile homes may be cheaper than other forms of housing providing similar accommodation, this is

¹ Wealden District Council Local Plan, Affordable Housing Delivery Local Plan adopted May 2016

not in itself sufficient to ensure that they comply with the definition of affordable housing within the Framework.

29. I have noted the conclusion reached in the Shripney Garden appeals². However, I have little information about the evidence which was before the Inspector on this point. I have likewise noted that the Inspector in the Great Bricett appeal³ reached a different view and also alluded to the Shripney Garden case as being contrary to the prevailing view based on other appeal decisions which had been presented to him. I am likewise not bound by the decisions of fellow Inspectors and have based my consideration of this issue on the evidence before me.
30. Various other points have been raised by the parties regarding the arrangements for purchasing mobile homes, the site licencing regime, characteristics of the local housing market and the role of Registered Providers. However, none of the points raised alter my conclusions as set out above.
31. Having concluded that the proposal would not deliver affordable housing in accordance with the Framework, it follows that it conflicts with Policy AFH1, in the absence of the required financial contribution.
32. I therefore conclude that suitable provision would not be made for affordable housing. Therefore, variation of condition 1 as proposed would conflict with Policy AFH1 of the AHDLP 2016 and with relevant paragraphs of the Framework. These policies require, amongst other things, that affordable housing provision is made in relation to proposals delivering 10 or more net dwellings, including through a financial contribution towards off-site provision, where justified.

Other Matters

33. I acknowledge that there was engagement with the Council while the application was under consideration and the proposal was amended in response to officer advice. However, the reasons for the eventual officer recommendation and decision are clearly set out in the Officer Report and communications prior to that point do not have a bearing on my consideration of the main issues, as set out above.

Planning Balance

34. Evidence from both parties confirms that the Council cannot currently demonstrate a five year supply of housing land. The appellant quotes a figure of 3.66 years, although no date is given at which that figure was applicable. No alternative figures have been provided.
35. This shortfall in housing land supply means that the development plan policies which are most important for determining the application are deemed to be out of date. Policies relating to provision and safeguarding of open space, the living conditions of future occupiers and provision of affordable housing are substantially consistent with the Framework, notably paragraphs 64, 93 and 130, as outlined above. I have therefore attributed significant weight to the conflict with those policies and the associated harm.

² Appeals ref APP/C3810/C/19/3222033 and APP/C3810/W/18/3214487

³ Appeal ref APP/W3520/W/22/3297920

36. The Framework does not include any specific restrictions on provision of additional mobile homes within an established site, or any requirement for associated environmental enhancements. Given the site's location on the edge of a built-up area, the provision of additional housing is also broadly consistent with provisions of the Framework directing growth towards established settlements with good access to public transport and local services. On that basis, I attribute very limited weight to the conflict with Policy DC22.
37. The appeal site is not subject to any policies which protect areas or assets of particular importance, as listed in footnote 7 to Framework paragraph 11. As such, the proposed development falls to be considered against the test in Framework paragraph 11d) ii. This requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. This test is also reflected in Policy WCS14 of the Core Strategy⁴, which is referred to in the first reason for refusal, in relation to the implications of the lack of housing land supply.
38. The proposal would deliver 10 additional homes, particularly suited to older people as a result of their single storey format and location within an established community of older residents. They could be delivered quickly, given the limited construction involved and the established site infrastructure. This would potentially release larger homes within the local housing market, although that cannot be guaranteed. Notwithstanding my conclusions in relation to the accessibility of alternative open space, the site benefits from access to public transport and a wide range of services in Eastbourne. Therefore, the homes would be well located in terms of limiting the need to travel and meeting the wider needs of future occupiers.
39. The proposal would also make more efficient use of a relatively small site. However, the Framework's support for development on small sites is not at the expense of ensuring that such sites are suitable, or that development will function well and provide a high standard of amenity for existing and future users. The numerical contribution to the supply of housing land would also be relatively modest, given the scale of the proposal.
40. The absence of any identified harm in relation to other issues, including highway safety and parking provision, is a neutral factor which weighs neither for nor against the proposal.
41. Having taken account of its relatively modest scale, I attribute moderate weight to the proposal's contribution to the supply of housing and the related benefits as outlined above. Set against that is the harm arising to living conditions for existing and future occupiers, particularly those with protected characteristics, and the lack of provision for affordable housing, to which I have collectively given significant weight. On that basis, notwithstanding the very limited weight I have given to the conflict with Policy DC22, I conclude that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

⁴ Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan adopted February 2013

42. The proposal does not therefore benefit from the presumption in favour of sustainable development, as articulated in paragraph 11 of the Framework and Policy WCS14 of the Core Strategy.

Conclusion

43. For the reasons set out above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR