

Appeal Decision

Site visit made on 19 December 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI
an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/P1133/W/23/3322486

Roosters Haven, Higher Ashton, Near Exeter, Devon EX6 7RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Phillip Brown against the decision of Teignbridge District Council.
 - The application, Ref. 21/02598/FUL, dated 29 November 2021 was refused by notice dated 23 March 2023.
 - The development proposed is the use of land for the siting of a residential mobile home.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land for the siting of a residential mobile home at Roosters Haven, Higher Ashton, Near Exeter, Devon EX6 7RD in accordance with the terms of the application, reference 21/02598/FUL, dated 29 November 2021 and subject to the conditions in the attached Schedule.

Preliminary Matters

2. I have taken the description of the appeal proposal from the appeal form as on the application form this was insufficiently clear.
3. Since the appeal submissions were made, Government policy in the National Planning Policy Framework ('the Framework') has been revised (December 2023) with a change in paragraph numbers. I have referred to the revised numbers in this Decision.

Main Issue

4. The mobile home is proposed to remain on the site in its existing form. The main issue is whether a change to the use of land for a mobile home for permanent residential use is acceptable having regard to (i) local and national planning policies and (ii) all other material considerations.

Reasons

Compliance with Local and National Planning Policies

5. In the Officers' Report on the application the Council acknowledges that the mobile home has been on the land continuously since 2011. However, the Council explains that this was on the basis of it being ancillary to the agricultural use of land, although with the appeal application seeking a permanent residential use this relationship would not necessarily continue. With
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that said, in the absence of details of the planning history in the appeal documentation, I am unsure as to the exact meaning of the Council's term '*lawful use*' as applied to the existing mobile home and the land on which it is sited.

6. Be that as it may, the Council's view is that there is an 'in principle' objection to a new dwelling in the open countryside under the provisions of the Teignbridge Local Plan 2013-2033 adopted in May 2014 ('the Local Plan') and in particular four of the Policies: S1, S1A, S21A & S22. When taken together these policies in essence seek to ensure that development is 'sustainable' in terms of both its location and individual impact on its surroundings. In so doing the policies are broadly consistent with Government policy in the Framework, notably Section 2: 'Achieving Sustainable Development' and Section 5: 'Delivering a Sufficient Supply of Homes'.
7. The potential severance of the connection to agriculture combined with a location well away from the nearest small villages and hamlets, schools, shops, public transport and other infrastructure brings the appeal site clearly within the description of 'isolated homes in the countryside' which paragraph 84 of the Framework seeks to avoid. One of the five exceptions stated in the paragraph relates to an '*essential need for a rural worker to live permanently at or near their place of work in the countryside*'.
8. However, whilst noting that the appellant's occupation of the mobile home does facilitate his past and present agricultural activity, the grounds of appeal do not support this with the necessary detailed evidence as to an essential need to be on the site for the care of animals or to the scale of agricultural activity satisfying the financial viability criteria. I therefore accept the Council's appeal statement evidence on this point that, notwithstanding there is an operational farm holding on the site and adjoining land cited in third party evidence as between 16 & 20 hectares, the development fails to satisfy Local Plan Policy WE9: 'Rural Workers' Dwellings'.
9. Furthermore, the mobile home would not demonstrably satisfy consistency with any of the limited land uses identified in Local Plan Policy S22 as being necessary or appropriate in the countryside, including *b) 'agricultural uses'*. Nor in my view does the proposal fall to be considered under Policy WE5 'Rural Exceptions', which refers to the provision of affordable housing in rural settlements.
10. I also agree with the Council's rejection of the arguments in the grounds of appeal that argue, amongst other matters, Local Plan Policy S22 is out of date due to inconsistency with Framework paragraph 84. The Local Plan was adopted some years before the current Framework, but I regard it as having a broad equivalence with current Government policy. The appellant's argument as to the absence of a specific policy on mobile homes is at best a minor issue that does not affect the overall thrust of national and local policy and I afford it limited weight. In respect of the site being 'previously developed land', the absence of a permanent structure precludes the site satisfying the definition of this status in the Framework's Glossary.
11. Accordingly, as regards the Local Plan policies, the appeal proposal runs counter to the objective of ensuring that development of residential accommodation in

the countryside is not isolated and remote from existing settlements and services. The change of use of land to site a mobile caravan for ancillary agricultural purposes to permanent residential use can therefore be considered to result in a degree of harm by virtue of a conflict with adopted policy. I return to this matter in my weighing of the planning balance in paragraphs 18-20 below.

Other Material Considerations

12. The officers' report on the application explains that the case officer did not carry out a site visit and in my view this is not commensurate with a full and fair appraisal of the proposal. Nonetheless, the report acknowledges that the design of the mobile home does not have any adverse impact on the site or the surrounding area: '*..... the acceptable nature of the mobile home/chalet is already established in this regard*'. The report also recognises that the existing structure does not have any unacceptable impact upon neighbouring amenities and the proposed change of use would not alter the existing situation in this regard.
13. The officers' report also concludes that the proposal would have no adverse impact on biodiversity, subject to a condition being imposed on any permission to control the form and intensity of external lighting. The officers also consider there to be adequate access and parking provision. In addition, although there is a letter of objection to the appeal application there are also seven letters of support and no objection forthcoming from the Parish Council
14. The objection letter raises issues on the lines of the Council's appraisal as regards conflict with policy and insufficient details. However, the thrust of the seven letters of support is one of a combination of the mobile home having an entirely benign effect on its rural surroundings and the appellant's presence over a number of years making an important and positive contribution to the character and appearance of the countryside. Within this there is a particular emphasis on the land's conservation and biodiversity, including rare breeds. In this regard I note that the Council's Biodiversity Officer has no objection to the application proposal, although again a site visit would have been informative and is likely to have resulted in a positive as opposed to a neutral observation.
15. This positive effect is supported by evidence of the appellant's participation in the Mid-Tier Countryside Stewardship Scheme. And at my visit I was able to observe the veracity of neighbours' comments on the appellant's commitment to the preservation and enhancement of conservation and ecology on the land defined as the application site, not least the large lake created for wildlife.
16. Local Plan Policy S1 sets out sustainable development criteria and leaving aside the disadvantages of an isolated rural location the appeal scheme would have either a neutral or positive impact (the latter applying particularly to landscape and biodiversity in criteria g) and h) for the reasons stated in paragraphs 14 & 15 above). In the Framework, there is similarly support for decisions that conserve and enhance the natural environment (for example paragraphs 180a) & d)).
17. In the event of the appeal being dismissed the appellant and his wife would lose their home and given that there is an existing farm holding there would be the need for daily travel to and from the site. For as long as the farm holding

continues (by either the appellant or a subsequent occupier) this would negate the advantage of the removal of the need to travel resulting from the removal of the mobile home. These considerations add weight to the case for the appeal to be allowed as does the mobile home's presence on the site for over a decade and the resultant potential for a Certificate of Lawful Use if and when applied for, albeit not in the form that the appellant requires.

Planning Balance

18. On the first issue I have found that the appeal proposal does not perform well in respect of the spatial aspects of sustainability as expounded in both the Local Plan and the Framework. Whilst this results in some harm, I consider this to be very limited in the case of the continued occupation of a mobile home with a maximum capacity of three residents and which is acknowledged by the Council to have no adverse effect on its surroundings. Both the form and size of the residential unit have far less impact than would be the case with a house.
19. I am also mindful that in paragraph 84, the Framework identifies the acceptability of five categories of residential development where the disadvantage of an isolated location in the countryside is outweighed and that this element of Government policy sits alongside fairly recent amendments to the GPDO to permit a change of use of agricultural buildings to dwellings.
20. Clearly the appeal proposal does not fall within any of these categories, but it does illustrate that appraisal of compliance with the Local Plan policies and a conclusion as to the extent of harm caused must firstly have regard to the Framework's positive approach to decision-making as comprising a material consideration of great weight and secondly that the Framework should be read as a whole, as advised in paragraph 3 of the document.

Conclusion and Conditions

21. Overall, and having had regard to all other matters raised, I find that other material considerations outweigh the disadvantages of the isolated location of the mobile home and that accordingly the appeal should succeed.
22. In reaching this view I have taken account that the permission could in the long term result in an occupier who, unlike the appellant, has little or no connection with the area and has no particular need to live in this particular location. However, the mobile home is an incremental addition to housing supply; its modest size and capacity limits the disadvantages of relatively poor locational sustainability and it has only a limited impact on its surroundings.
23. I shall therefore allow the appeal and in so doing impose the Council's suggested conditions. A condition identifying the development as that shown on the approved plans avoids uncertainty and is in the interests of proper planning. A condition regulating external lighting will safeguard biodiversity and prevent light pollution in the countryside. Finally, a condition to limit the site to just one mobile home and to meeting the legal definition of a caravan will ensure that the permission is confined to the development applied for and allowed.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be carried out in accordance with the following approved plans: OS based Site Plan; Composite Drawing No. 22/03/01;
- 2) Notwithstanding Section 55(2) of the Town and Country Planning Act 1990 and/or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no external lighting shall be installed on, or in association with, the building, except for low-lumen, PIR motion-activated lights on a short timer (maximum 1 minute), sensitive to large objects only (to avoid triggering by bats or other wildlife). Any such lights shall be mounted, at a height no greater than 1.9m from ground level, directed and shielded downward (below horizontal) and away from the site hedges and trees. The lights shall produce only narrow spectrum, low-intensity light output, UV-free, with a warm colour temperature (3,000K or less) and a wavelength of 550nm or more;
- 3) The number of static caravans site station on the site at any time shall not exceed one and the static caravan unit shall meet the definitions of a caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended).