



Appeal Decision

Site visit made on 14 August 2024

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 August 2024

Appeal Ref: APP/R3705/W/23/3331905

Croxall Farm, Caravan Site, Hoggrills End Lane, Nether Whitacre, Warwickshire B46 2DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr & Mrs Brian & Sofya Lewis against the decision of North Warwickshire Borough Council.
- The application Ref is PAP/2022/0267.
- The application sought planning permission for the change of use of agricultural land to caravan park to allow mix of 14 no. touring caravan and tent pitches, with formation of additional hardstanding, together with new building to house male and female toilets, washing and showering facilities and a waste water disposal facility without complying with a condition attached to planning permission Ref PAP/2018/0496, dated 21 January 2019.
- The condition in dispute is No 4 which states that: *The pitches indicated on the plan reference 418/216/01 Rev E entitled 'Location and Site Plan' received by the Local Planning Authority on 18th December 2018 shall be occupied solely for holiday/leisure or touring purposes and not for permanent residential occupation. The occupation of the touring caravan or tent shall be restricted to a period of four weeks only for any single let and there shall be no return to the site within two weeks thereafter by the same occupier.*
- The reason given for the condition is: *To ensure the site is operated as a tourism and leisure caravan site only and in accordance with adopted planning policies.*

Decision

1. The appeal is allowed and planning permission is granted for the change of use of agricultural land to caravan park to allow mix of 14 no. touring caravan and tent pitches, with formation of additional hardstanding, together with new building to house male and female toilets, washing and showering facilities and a waste water disposal facility at Croxall Farm, Caravan Site, Hoggrills End Lane, Nether Whitacre, Warwickshire B46 2DA in accordance with the application Ref PAP/2022/0267, without compliance with condition number 4 previously imposed on planning permission Ref PAP/2018/0496 dated 21 January 2019 and subject to the conditions in the attached schedule.

Preliminary Matters

2. The planning application form indicates that permission was sought to vary the condition to allow pitches nos. 1 to 4 inclusive to be used for stays of up to six months by construction workers for HS2 and related infrastructure projects. This is reflected in the Design and Access Statement. However, while the

appeal form states that the description of development has not changed from that stated on the application form, it sets out that the proposal seeks the variation of condition no. 4 of planning permission PAP/2018/0496 dated 21/01/2019 relating to amendments to use of pitches 1 to 4 inclusive for longer term use of up to 60 days, with no return for 30 days. It is clear from the officer's report and appellants' appeal submissions that the proposal was considered on this basis. In the interest of clarity, I have determined the appeal based on the revised description of development.

3. The appeal site is within the Green Belt. I note this was an issue in relation to a previous appeal at the site¹. The Council has not suggested that the proposed variation of the condition would result in inappropriate development in the Green Belt, and I have no reason to reach a different conclusion. Consequently, it is not incumbent on the appellants to demonstrate very special circumstances in this case.

Background and Main Issues

4. Planning permission² (the original permission) for the use of the land as a caravan park included a condition to restrict the occupancy of the pitches for holiday/leisure or touring purposes only, for a maximum duration of 4 weeks with no return to the site by the same party within two weeks. The reason for the condition is to ensure the site is operated as a tourism and leisure caravan site, in accordance with development plan policies.
5. The appeal seeks to vary the condition to enable the use of 4 of the pitches at the site for longer term stays of up to 60 days, with no return by the same party within 30 days, to include occupation by construction workers for HS2 and related infrastructure projects. The main issue is the effect of the proposed increase in the period of occupancy of the pitches on the living conditions of neighbouring residents, with particular regard to noise and disturbance.

Reasons

6. The appeal site forms part of a larger site comprising 14 touring pitches, each consisting of an area of hardstanding for the siting of a motorhome, caravan or trailer tent. It is set back from the road, located immediately behind the farmstead at Croxall Farm, which comprises a group of agricultural buildings adjacent to the farmhouse. The immediate area includes a small number of residential properties set in generous plots, surrounded by the adjoining open countryside. The appeal proposal would see the maximum length of occupancy of 4 pitches at the site increase from 4 weeks to up to 60 days, to provide temporary accommodation for construction workers or longer term stays for tourists. There would be no change to the existing facilities or infrastructure at the site, and the occupants would bring their own motorhomes or caravans for the duration of their stay.
7. The existing condition restricts the occupancy of the pitches to single lets of no more than 4 consecutive weeks. I acknowledge concern that the proposed extension of the maximum length of stay by a single party would lead to a sense of a greater degree of permanency of the site. However, the pitches could be occupied, albeit by different occupants, without interruption, on a permanent basis. Furthermore, while the presence or otherwise of caravans

¹ Appeal Ref: APP/R3705/W/23/3331166

² LPA Ref. PAP/2018/0496

and motorhomes on the pitches may currently fluctuate on a seasonal basis, in the absence of a restrictive planning condition to prevent the pitches being used during specific periods, they could be occupied continuously throughout the year.

8. The proposal, to allow the pitches to be occupied for longer periods for any single let, either by tourists or contractors, would therefore not lead to an increase in the amount of time, or when, the pitches could currently be occupied overall, above that permitted by the original permission. Nonetheless, there is no clear reason why periods of longer occupancy by a single party, would preclude periods of vacancy, as there may be now, or result in all year-round occupation of the pitches.
9. Moreover, there is no substantive evidence that the extended periods of occupation of the 4 pitches, as opposed to short term turnover, would have a demonstrable effect on the characteristics of the site, or that it would be more disruptive by virtue of a greater level of activity, including traffic movements, and associated noise. Furthermore, there is no compelling reason why the occupation of the caravans or motorhomes by parties not on holiday, but rather employed locally, would give rise to larger units or a greater number of occupants, or that it would lead to an increase in activity at the site that would be discernible, over and above a tourist use. This is particularly so given that such parties would be likely to be absent from the site for significant periods during the day when they are out at work.
10. As such, it has not been clearly demonstrated that the proposal would have a harmful effect in terms of additional noise or activity upon the occupiers of nearby residential properties.
11. While not specifically included in the reason for refusal, the Council also express concern that residential accommodation in this location, in open countryside beyond a settlement boundary, would be unsustainable in spatial planning terms. However, the imposition of a suitable planning condition to limit the maximum period of occupancy to 60 days, whether it be for holiday makers or contractors, would prevent the occupation of the pitches for permanent residential use. This would be monitored by the Council through the keeping of a register of visitors and touring caravans visiting the site.
12. I therefore conclude that the proposed variation of the condition, to increase the maximum period of continued occupancy of pitches numbers 1 to 4 inclusive, from 30 to 60 days, would not harm the living conditions of neighbouring residents, with particular regard to noise and disturbance. Accordingly, the proposal would not conflict with Policy LP29(9) of the North Warwickshire Local Plan 2021 adopted September 2021 (LP), which sets out that development should avoid and address unacceptable impacts upon neighbouring amenities through noise, or Policy LP13 of the LP, in so far as it supports proposals for farm diversification where there would be no adverse impacts arising from increased noise. It would also accord with the aims of the National Planning Policy Framework in relation to achieving well-designed places that have a high standard of amenity for existing and future users.
13. My attention is also drawn by the Council to Policy LEP2 of the Nether Whitacre Neighbourhood Plan 2023 – 2038, made September 2023 which supports small touring caravan sites (maximum five caravans). However, as the pitches to which the appeal relates form part of the established site at Croxall Farm, this

policy is not directly relevant to the proposal, which solely seeks to vary the occupancy period.

Other Matters

14. Whether or not the development has been carried out in accordance with the original permission, including the construction of the shower and toilet block, together with any alleged breach of other planning conditions, either historically or in the future, is a matter for the parties to resolve outside of this appeal.
15. As the proposal would not alter the position of the pitches, or the period of occupation of the site overall, there is no clear evidence that the extension of single periods of occupancy would give rise to a loss of privacy of occupiers of surrounding properties or harm the character and appearance of the area.
16. Given the absence of harm in relation to the main issue, the lack of availability of alternative accommodation for contractors in the locality and the provision of local amenities and services are not determining factors in the appeal.
17. There is no compelling evidence that traffic movements associated with the use of the pitches, including deliveries and commuters at specific times of the day, would have any significant effects in terms of the operation of the local highway network or air pollution or that waste from the site could not be managed appropriately.
18. My attention is drawn to a recent appeal at the site³ which was dismissed. However, the proposal in that case was for the creation of twelve additional motorhome/caravan pitches and is therefore not directly comparable to the appeal proposal before me. In any event, I have determined the appeal on its own merits, based on the evidence before me.

Conditions

19. Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) should also reinstate the conditions imposed on earlier permissions that continue to have effect. In the absence of information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties. I have not imposed condition 1, which relates to the commencement of the development within the prescribed period and is no longer necessary. For the avoidance of doubt and in the interests of clarity, as the red line plan submitted with this application includes only the 4 pitches to which it relates, I have amended the condition which restricts the maximum number of touring caravans or tents so that it applies to the site as a whole.

Conclusion

20. For the reasons set out above the appeal is allowed.

E Worley INSPECTOR

³ Appeal Ref: APP/R3705/W/23/3331166

Schedule of Conditions

- 1) The development hereby approved shall not be carried out otherwise than in accordance with the plans; 557/222/01 entitled 'Location and Site Plan' received by the Local Planning Authority on 26 May 2022; 418/216/01 Rev E entitled 'Location and Site Plan' received by the Local Planning Authority on 18th December 2018; 418/216/02 entitled 'Toilet Block' received by the Local Planning Authority on 29th November 2018.
- 2) The maximum number of the combination of touring caravans or tents on the whole site, as approved under planning permission Ref PAP/2018/0496, dated 21 January 2019, at any one time shall not exceed fourteen (14 no.) in total.
- 3) The occupation of pitches 1 to 4 inclusive, as shown on 'DWG No. 557/222/01 Rev A Location and Site Plan', shall be restricted to a maximum period of 60 days for any single let and there shall be no return to the site for at least 30 days thereafter by the same occupier. The occupation of pitches 5 to 14 inclusive shall be solely for holiday/leisure or touring purposes and occupation of any touring caravan, motorhome or tent shall be restricted to maximum period of 4 weeks only (28 days) for any single let and there shall be no return to the site for at least 2 weeks (14 days) thereafter by the same occupier.
- 4) The materials as approved under DOC/2022/0083 related to the toilet block shall only be used.
- 5) Hedges shall be planted along the southern and western boundary where indicated on plan reference 418/216/01 Rev E entitled 'Location and Site Plan' received by the Local Planning Authority on 18th December 2018 prior to the commencement of the use of the development hereby in accordance with details to include species and heights that have been submitted to and approved in writing by the Local Planning Authority.
- 6) The approved drainage plans for the disposal of surface water and foul sewage as covered by DOC/2022/0083. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 7) The use and development hereby approved shall not be in operation until vehicular access to the site shall be surfaced and drained in accordance with details to be submitted to and approved in writing by the District Planning Authority for a distance of 15 metres into the site, as measured from the near edge of the public highway carriageway.
- 8) The use hereby approved shall not commence until the retrospective vehicular track to the east of the site is removed and the land restored to its former condition within three calendar months and retained thereafter, to the satisfaction in writing of the Local Planning Authority.
- 9) For the avoidance of doubt, this permission shall specifically not allow this site to be used for the storage of caravans and mobile homes by any person whomsoever.

- 10) A register of visitors and touring caravans visiting the site including arrivals dates and departure dates shall be maintained and made available for inspection by officer of the Local Planning Authority at 24 hours notice.
- 11) No floodlighting or other form of external lighting shall be installed except in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting which is so installed shall not thereafter be altered without the prior consent in writing of the Local Planning Authority.
- 12) The development hereby permitted shall not be occupied until a scheme for the provision of adequate water supplies and fire hydrants necessary for firefighting purposes at the site, has been submitted to and approved in writing by the local Planning Authority. The approved scheme shall be implemented in full prior to occupation of any development to the satisfaction of the Local Planning Authority.

*******end of conditions*******