



Appeal Decision

Site visit made on 12 November 2024

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2024

Appeal Ref: APP/Z3825/W/24/3347737

Chase Farm Shaws Lane, Southwater, Horsham RH13 9BX

- 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 73A of the Town and Country Planning Act 1990 (as amended) for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Miss Louise Edwards against the decision of Horsham District Council.
 - The application Ref is DC/22/0581.
 - The application sought planning permission for change of use of part of a field and farm yard for five glamping pods without complying with a condition attached to planning permission Ref DC/20/1256, dated 11 September 2020.
 - The condition in dispute is No 1 which states that: 'The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule below'. [Schedule reproduced at Appendix A]
 - The reason given for the condition is: 'For the avoidance of doubt and in the interest of proper planning'.
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Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. Under s73 of the Town and Country Planning Act 1990 (as amended) ('the Act'), planning permission may be granted for the development of land without complying with conditions subject to which a previous planning permission was granted. Where such an application is made retrospectively, s73A of the Act provides that permission may be granted including development already carried out without complying with some condition subject to which planning permission was granted.
3. In this case, the Council granted planning permission for development described as 'change of use of part of a field and farm yard for five glamping pods' subject to a number of conditions¹ ('the Parent Permission'). Condition 1 of the Parent Permission specifies the approved plans. These include 'Plans (Specifications) 08.07.2020' and 'Floor Plan (Proposed) 09.07.2020' which show the glamping pods as mobile timber structures with a nearly square footprint and a sinuous curving roof form.
4. The appellant is now seeking to 'vary' condition 1 of the Parent Permission in order to make changes to the glamping pods specified on the approved plans, proposing alternative glamping units which they suggest would be in place for a

¹ Application ref DC/20/1256

temporary period. No plans or specifications of any alternative glamping units have been submitted, but example photos were provided of a shepherds hut and an airstream caravan and these appear to be consistent with units that I observed were present at my visit.

5. Given the presence of these units which are ostensibly within the red line shown on the location plan approved under the Parent Permission, I have, for the purposes of this appeal, considered the proposal having regard to s73A of the Act. I note that the Council has raised concerns about whether or not the Parent Permission was lawfully implemented, including with regard to the location of the shepherds hut and airstream caravan and in that respect, I note that the plans listed at Condition 1 include two versions of a Block Plan which are wholly inconsistent with one another². However, it is not within my remit under a s78 appeal to formally determine whether the Parent Permission development has been lawfully implemented. My consideration of this appeal does not affect the issuing of a determination under s191 of the Act, and whether or not to pursue enforcement against the existing development on the site would be a matter for the Council.
6. In any event, an application under s73 of the Act may not be used to obtain a permission that would require a variation to the terms of the 'operative' part of the planning permission, that is, the description of the development for which the original permission was granted. The same would apply in respect of retrospective development considered under s73A of the Act.

Reasons

7. The operative part of the Parent Permission comprises 'change of use of part of a field and farm yard for five glamping pods'. In my experience, the term glamping pods would generally be understood as referring to small, typically wooden, buildings (albeit potentially mobile ones). As I have noted above, the approved glamping pods were to be mobile timber units which would be consistent with this.
8. The shepherds hut and airstream caravan on the site are also mobile and the appellant suggests that they would meet statutory definitions of a caravan. Be that as it may, neither appear to have timber exteriors and they are both of clearly different size, form and appearance to the pods permitted under the Parent Permission. This includes being raised off the ground on wheels which suggests towable structures that would be far more easily moveable than the approved timber units which would need to be lifted into position. They may be used for glamping, but the overall impression is of a trailer or caravan-style type of accommodation and in my view, the accommodation would be plainly different to what would reasonably be described or understood as 'glamping pods' as the Parent Permission provides for. The evidence before me offers no compelling case in support of any contrary interpretation of terms nor analysis of the nature of the units.
9. I therefore find as a matter of fact and degree that the shepherds hut and airstream caravan at the site would be inconsistent with the change of use of part of a field and farm yard for five 'glamping pods' as approved by the Parent Permission. I have no details of any alternative accommodation proposed that might accord with this description. On that basis, the appeal proposal would

² Block Plan 09.07.2020 and Block Plan 10.08.2020

create a conflict with the operative part of the Parent Permission and there are no powers under s73 or s73A to vary the description of the development itself.

10. Irrespective of additional concerns raised by the Council in respect of the siting of the accommodation, I conclude for these reasons that the proposal would be beyond the scope of powers available under s73 or s73A of the Act. As a consequence, the appeal must be dismissed and a fresh planning application would be required.

Other Matters

11. I acknowledge the appellant's comments highlighting delays in the application process and have noted submissions including in respect of the demand for visitor accommodation, support for farm diversification and the contribution that the proposal would make to the economy. I have also noted additional concerns raised by the Council. Given my findings above however, I have not proceeded to consider other aspects of the parties' cases, nor the planning merits of the proposal, as these could not alter the outcome of this appeal.

Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR

Appendix A: Schedule to Condition 1 of Planning Permission Ref DC/20/1256

SCHEDULE OF PLANS/DOCUMENTS

Plan Type	Description	Drawing Number	Received Date
Location Plan		NONE	09.07.2020
Block plan		NONE	10.08.2020
Plans	Specifications	NONE	08.07.2020
Design & Access Statement		NONE	08.07.2020
Floor Plan	Proposed	NONE	09.07.2020
Block Plan		NONE	09.07.2020
Supporting Docs	Business Plan	NONE	08.07.2020