



Appeal Decision

Hearing held on 19 November 2024

Site visit made on 20 November 2024

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/H0738/W/24/3343909

Little Meadows, Darlington Road, Elton, Stockton-on-Tees TS21 1AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Stokesley Tractors Limited against the decision of Stockton-on-Tees Borough Council.
 - The application Reference is 23/2322/RET.
 - The development proposed is Retrospective application: change of use of land to residential, retention of Little Meadows and associated works and infrastructure, buildings and structures.
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Decision

1. The appeal is dismissed.

Preliminary Matters and background

2. The National Planning Policy Framework (the Framework) has been updated on 12 December 2024 and after the submission of this appeal. The parties have been informed and asked for comments on the updated version.
3. At the hearing the appellant produced evidence by way of a copy of a judgement dating from 1993 made by the Court of Appeal determining that the chalets in question constituted buildings.¹ The Council also submitted further evidence from their Enforcement team dating from 2011. The correspondence response confirmed a 'chalet style home' was brought onto site and met the criteria of being a caravan. They also provided photographic evidence of a brand new factory-produced mobile home that they consider demonstrates the same characteristics as the structure on site. I have had regard to these submitted materials in reaching my decision.
4. The appeal site sits within the countryside and outside the village settlement of Elton as defined by the Stockton on Tees Local Plan. The site was once in operational use as a petrol filling station until the mid-1960's. Eventually, the site was purchased by Mr Harker. There is a long planning history of residential use associated with the Harker family who lived on the site, named Little Meadows, since around 1987. In January 1993 Mr Harker was granted a further planning permission to live in a caravan on the site through a temporary and personal permission². Condition Number 1 restricted the permission to Mr and Mrs Harker by name, and Condition 2 stipulated that *'When the site ceases to be occupied by either Mr or Mrs Harker, the use hereby permitted shall cease and all caravans,*

¹ R v Swansea City Council, ex p Elitstone Ltd May 5 1993

² Application ref 92/2219/P dated 15 January 1993

buildings and structures brought onto the land in connection with the use shall be removed and the site returned to its former use.'

5. The Harker family have since left the site and it was purchased by an independent business operated by the appellant, in around January 2022. The main residential structure and outbuildings remain, and from the evidence before me, has more or less been in continuous residential occupation. More recently, a family of five associated with the appellant's business occupy Little Meadows as their family home.
6. I am aware that the change of use of the land for residential purposes in this case was based on a temporary and personal permission basis but where a use continues or buildings remain, after the temporary period specified in the condition has expired, permission no longer exists. Therefore, the appellant is seeking the retrospective change of use of the land to residential on a permanent basis with the retention of all the structures on site.

Main Issues

7. The main issues of the proposal are:
 - Whether or not the structure can be considered as operational development or a twin-unit caravan;
 - The effect of a permanent change of use of the land upon the character and appearance of the local area;
 - Whether or not the proposal would be a suitable location for a permanent dwelling; and
 - Whether or not the living conditions of occupants by way of noise impact would be safeguarded.

Reasons

Principle of development

8. I note that Local plan Policy SD1 aims to promote sustainable development. Policy SD3 has an overarching role to secure new housing in the Borough. It is also more specific as it informs that new dwellings within the countryside will not be supported unless it is needed for essential farming, forestry or the operation of a rural based enterprise; represents the optimal viable use of a heritage asset; would reuse redundant or disused buildings and lead to an enhancement of the immediate setting; or are (inter alia) of exceptional quality or innovative design.
9. Taking into account what has been applied for in this countryside location, the structure would not be associated with essential farming, forestry or the operation of a rural based enterprise and it does not, as far as I am aware, represent the optimal viable use of a heritage asset. Therefore, the proposal would conflict with Policy SD3 parts 4 a and b. In terms of criteria c, even if I do not find the residential accommodation to meet the definition of a 'building', it is neither disused or redundant. Therefore, it fails on this ground. The final criteria of this part of the policy relates to exceptional quality and is discussed elsewhere within my assessment.

10. In terms of Policy SD5 that seeks to safeguard the natural, built and historic environment, this policy allows for the conversion and re-use of buildings within the countryside provided it meets certain criteria. The structure remains on site and has been by all intents and purposes continuously occupied, is not what I would reasonably describe as conforming to the notion of it being a 're-use'. Furthermore, given what has been applied for by the appellant, there is debate in the first instance as to whether or not this main structure is either a building, according to the appellant, or a twin-unit caravan according to the Council. This is discussed below.

Whether or not the structure is operational development or a twin-unit caravan

11. It is settled case law that the appropriate criteria for determining whether a structure constitutes a building are size, permanence and physical attachment. The appellant argues that the main residential structure on site is a building, and other associated development that has occurred on site constitutes operational development. They also include some written evidence from a plan drawer to support their view.
12. S13(1) of the Caravan Sites Act 1968 (CSA) which deals with twin-unit caravans defines twin-unit caravans thus: *'A structure designed or adapted for human habitation which – (a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and (b) is, when assembled, physically capable of being moved by road from one place to another (whether being towed, or being transported on motor vehicle or trailer), shall not be treated (or as having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 (CSCDA) by reason only that it cannot lawfully be so moved on a road when assembled.'*
13. The dimension test relates to limits on length, width and the height of the living accommodation as set out in s13(2) of the CSA confirms that, for the purposes of the CSCDA, the expression 'caravan' shall not include a structure designed or adapted for human habitation where its dimensions, when assembled, exceed any of the following limits: 20 metres in length; 6.8 metres in width; a maximum internal floor to ceiling height in relation to the living accommodation of 3.05 metres.
14. Based on the dimensions provided by the appellant and further to no contrary information received by the Council, I am satisfied that the dimension test is met.
15. In terms of the construction test, all parties agree that the same structure has remained on site since 2011. From my own site investigations, I could see there is a horizontal and vertical timber joining strip centrally positioned in the ceiling and walls where two parts meet, and is decoratively covered. Most likely embedded underneath this joint are bolts or clips to structurally affix the two parts together. On the balance of probability, and no sound evidence on the contrary, I am satisfied that the structure meets the construction test of the CSA.
16. In terms of the mobility test, the requirement of s13(1)(b) of the CSA is that the structure, when assembled, should be physically capable of being moved by road irrespective of whether it can be so moved on a highway. I was able to undertake my own external examination to assist in my findings. Underneath the structure I could see the subfloor raised above the finished ground level and horizontal supporting beams spanning the subfloor and attached to a number of metal support legs holding the structure up above the concrete slab below. No part of the metal

supports are physically embedded into the concrete slab below, or other physical attachment anchoring it to the ground that was visible. I could see that the purpose of the metal legs is to prop up the structure from the ground and the void provides space to connect utility services below as well as for air circulation. The structure has no formal trench foundations.

17. The entrance access steps abut the structure and provide a functional purpose. From what I viewed on site, they do not serve to stabilise it. The structure may appear to 'rest' on the single skin brickwork skirt, but I could see it has no formal structural foundations tying it into the concrete slab below or significant structural properties tying into the main structure. For all intents and purposes, it performs a cosmetic function only and the weight of the structure appeared to be carried by the steel support legs. It is highly likely that the steps and skirt were added after the structure was set into position given the method of fixing and lack of structural integrity. I can see no reason why they could not be physically and easily detached from the structure given their degree of attachment, or that the leg supports cannot be easily demounted from the concrete slab.
18. Even though there are utility connections below the structure, these do not by themselves provide a discernible physical attachment of the structure to the ground. Whilst no draw bar is evident externally or lifting eyes visible, I find no convincing reason to suggest that once the modifications have been removed, the structure could not be physically capable of being lifted onto a trailer and moved on a road from one place to another.
19. Whether or not there are overhead power lines that pose a constraint to movability of the structure, this has no bearing on the mobility tests set out within the CSA.
20. As part of my assessment, I have had regard to the evidence submitted from the Enforcement team. All parties agree that this is the same structure dating from 2011 to which the Council considered it to be a caravan. This is material in my assessment. Taking into account the construction of the external access steps, the inner boundary wall, concrete slab and tarmac areas and the construction of the subfloor, I do not think they, by themselves amount to the structure being regarded as operational development.
21. The appeal decisions and legal judgements brought to my attention by the appellant to support their proposal are based on a case by case basis. As is my duty I have considered the specific evidence before me and carried out my own on-site investigations. Therefore, as a matter of fact and degree, based on the evidence before me I therefore consider that the structure meets all of the tests for being a twin-unit caravan but does not meet all of the tests for being regarded as a building.

Character and appearance

22. As the building is in situ, I am therefore able to assess the direct impact of the structure on the ground. As well as the aims of Policy SD5, the Framework at paragraph 187 informs of 'recognising the intrinsic character and beauty of the countryside'. The site has a rural context despite the location of the nearby caravan storage and sales and touring pitches, the local infrastructure of Elton Interchange and the A66 to the north and the West Stockton Sustainable Urban Extension. The houses feather out from the tight Elton settlement envelope into the countryside

with looser spacing between built development and the verdant and spacious characteristics of the open countryside surrounding, is experienced.

23. I have concluded that the structure is a twin-unit caravan for the purposes of the CSA. Its appearance does not blend with the more rustic characteristics of other traditional dwellings of Elton where, although white coloured render is a feature, its is also intermingled with red brick faced buildings, terracotta coloured tiled roofs, and natural slate roofs. Some are barn or outbuilding residential conversions associated with the historic agricultural nature of Elton. As it stands in this location, it is stark in appearance and poorly relates to the aesthetic characteristics of the adjacent settlement.
24. Whilst sectional homes assembled on site are broadly speaking, not unusual, the physical and visual characteristics of the structure are more akin to that of a mobile holiday home of a temporary nature rather than a permanent dwelling of conventionally constructed materials. Furthermore, as the appellant has confirmed, these types of structures are not intended for permanent residential accommodation as they are constructed of relatively short-life materials. The structure is therefore not of an 'exceptional quality or innovative nature of design' to be considered compliant with Policy SD3 4d).
25. Even if the structure still retains some viable lifespan, in this countryside context where it is visually experienced in long range views from most directions, given land topography and lack of natural screening, by changing the use of the land on a more permanent basis and retaining the structures on it would result in a visually intrusive form of development, adversely weakening its connection to the distinctive rural character to which it is appreciated. Furthermore, I find little bearing on the appellant's assertion that the adjacent paddock enhances the attractiveness of the site. Therefore, the proposal as sought would result in a deleterious effect upon the character and appearance of the local area, and intrinsic beauty of the countryside. This weighs significantly against the proposal.
26. The visually exposed nature of the site also draws undue attention to its poor integration with the wider verdant countryside setting. The appellant's suggestion of increased planting and around 10% biodiversity net gain enhancements around the site could be secured by condition should I see fit. However, be that as it may, I am not convinced that this would reasonably outweigh the harm arising to the character and appearance of the local area.
27. The appellant raises concern regarding the effect upon the character and appearance of the local area should they be required to comply with Condition 2 of the earlier permission, especially as they consider there is a threat that this could lead to anti-social behaviour on the site or become unsightly. They reason this would be a worse situation especially as there is evidence of it having become an untidy site before the Harker's occupation. However, there is no substantive evidence for me to consider that if the land is returned to its former use, it would become a likely target for anti-social behaviour, or an eyesore.
28. I understand the lengthy history of residential use at the site. However, the site remains within the countryside which has not changed, and its contribution to the natural environment should be respected. An appeal decision brought to my attention by the appellant to replace a caravan with a dormer bungalow is not the same circumstances as this, as this proposal does not seek to replace the structure

in situ. Other evidence brought to my attention by the appellant relating to an appeal decision for the material change of use of land to residential is also not the same circumstances as this proposal. It relates to an enforcement appeal however of a permanent building of conventional construction. The Inspector deemed it to have the characteristics of a residential dwelling. It is not a twin-unit caravan. The Inspector concluded that a change of use of the land to residential would have no adverse effect upon the intrinsic beauty of the countryside and in their assessment favoured residential use to that of an alternative commercial use in this rural location.

29. Therefore, to conclude on this main issue, the proposal would not satisfy the requirements of the Framework to achieve well-designed places or conserve and enhance the natural environment, or Policies SD3 and SD5 of the Stockton Borough Local Plan in their objectives to restrict new dwellings within the countryside without justification, and amongst other things, its broad aims to secure good design and to safeguard local character and appearance.

Suitability of location

30. The appeal site is located outside the village settlement of Elton. Elton offers very little in the way of services and public facilities. There are bus stops in the village and footpaths linking the site to Elton. However, a public bus service no longer operates from them, and I do not consider the amenities of a church, post box or care home, or a bus booking service to sufficiently meet the day to day needs of occupants of Little Meadows. In order to access everyday essentials, they would be dependent on facilities from other settlements, namely Hartburn, around one kilometre away.
31. There are active bus stops within around an eight to ten-minute walk from the appeal site leading to Hartburn, Stockton High Street and further afield such as Middlesbrough and Darlington. Whilst these bus routes offer some connectivity to adjacent settlements, it does however have its limitations given its frequency of service including those running to the closest settlement of Hartburn where local amenities and everyday services are located. Even with cycle routes in place, it is highly likely occupants would rely on the private motor vehicle for everyday essential trips.
32. To that end, the proposal would not be suitably located with regards to services. The proposal would fail to comply with Policies SD1 and SD3 of the Stockton on Tees Local Plan, and the Framework which seeks to promote development and the distribution of housing in the most sustainable way. I find no direct relevance to policy SD5 however as this policy relates to the natural, built, and historic environment and does not directly relate to suitability of location in this regard.

Living conditions

33. The site has been occupied by the same family for over 30 years. The occupants will have inevitably experienced the road traffic noise associated with the A66 behind the site and I appreciate other dwellings in Elton backing onto this arterial route will also experience road traffic noise. However, as the appellant is seeking a permanent permission for a change of use of the land to residential, a noise impact assessment was required by the Council and has been undertaken by the appellant.

34. I have read that the noise consultant relied on information presented by the appellant to assist their survey. There appears to be some level of ambiguity surrounding this detail including where noise readings were taken, and a lack of understanding of the construction properties of the structure given it is not of conventional construction. The author of the noise survey recommends the erection of a two metre high fence to mitigate the effects of road traffic noise. I am however not convinced that the proposed fence would acceptably mitigate the effects of road traffic noise from within the structure, even though there is double glazing, and a history of residential use on the site and the current tenants complain of no adverse effects.
35. Nevertheless, given what has been applied for, without precise findings of the noise assessment, based on the evidence before me, I cannot confirm that the living conditions of occupants would be acceptably safeguarded. Nor do I consider that by applying a planning condition would acceptably meet the tests of paragraph 57 of the Framework.
36. To conclude on this main issue, the proposal would not protect the living conditions of occupiers and would therefore conflict with the objectives of the Framework to secure good levels of amenity, as well as the amenity safeguarding aims of Local Plan Policy SD8.

Other Matters

37. The children living at the site are differing ages and attend local schools. Their parents' wish for the current lifestyle to be continued in the accommodation on site as the family is settled and can travel easily to differing schools and to employment providers. I appreciate their desire to continue living at the site. However, it was understood at the Hearing that the family have not actively sought out the potential for new living quarters given they are aware of the appeal in hand. There is no evidence before me that the family's needs could not be met by the existing housing stock in the broader area. Indeed, the Council explained at the Hearing that they can assist through a social housing service that the family can register into in order to help them find suitable accommodation that would also allow the children to continue their education in their respective schools. Therefore, there would be no educational disruption to the children. The Council explained that they are in agreement to work alongside the family to ensure accommodation was available before any necessary enforcement action was pursued. The family would not be vulnerable to homelessness. The tenant was concerned that housing affordability would be an issue for them as a family. However, there is no substantive evidence before me to comment on this matter. Nor is there supporting evidence of one child's anxiety at the prospect of relocation to allow me to consider the effect on their wellbeing in detail.
38. The appeal site is situated within the Cleveland Coast Special Protection Area and Ramsar site. The area is significant for its protected habitats and is vulnerable to nutrient effects released from residential developments. In order to mitigate against the polluting effects of nutrients, the appellant can purchase credits from Natural England through a specific scheme. Natural England will in turn incrementally collect credits from other developments in order to procure the necessary mitigation measures. The appellant has submitted a Nutrient Credit Certificate from Natural England as they have reserved credits. A final certificate would be issued by Natural England once these credits have been purchased by the appellant. The

financial contribution required would be secured by way of a signed Section 106 Agreement. Although no legal agreement was made available at the time of the Hearing, it was confirmed that they would be willing to enter into one.

39. The appellant cites a number of other matters to take into account that they consider to be material to their case. They state that Little Meadows has been in continuous occupation by the same family until recently and after this time it continued to be occupied with no gaps in occupancy. It is a desirable home. The land is considered to be previously developed land and has been maintained in a tidy order since the Harker's occupation, and continues to be so. Environmental effects arising from demolition and removal of waste from the site would result in a harmful polluting effect to the environment when the structure could continue to function as a residential home especially as there is a wider government thrust towards protecting resources. They comment on the benefit of the uplift in housing stock for the Borough and local spend that would be generated. Furthermore, two occupants of Little Meadows are employed locally and the site is located close to employment providers.
40. Whether or not I concur with the appellant that the site was previously developed land, the Harker's planning permission was predicated on a personal and temporary basis, irrespective of whether or not it was continuously occupied after this time by other residents. No planning permission exists at the site once the Harker's have vacated. I apply very limited weight to their assertion that it is a desirable home to live in. I agree with the appellant that there would be some negative effects on the environment from carbon emissions associated with the demolition process and waste disposal. However, in the scheme of things the effects of demolition would be very limited and short term and although landfill would be longer term, the degree of which would be limited. I apply only some small weight to the adverse effects of this. In any case, there is nothing to say that the structure could not be re-purposed elsewhere. I also apply very limited weight to the fact that the permanent residential use would only increase the Borough's housing stock by one unit, even if the thrust of the Framework is to deliver a greater increase in homes within the local area. The local spend arising from a permanent change of use to residential would be small as a whole. The site is located within reasonable distance to a number of local employment providers although I apportion this a small degree of weight in the balance, and to the fact that the current occupiers are employed locally. All things considered, I apportion these considerations only limited weight in the totality. It does not outweigh the considerable harm I have previously identified.

Balancing exercise

41. Based on my assessment, I have found the proposal would not be suitable as a permanent change of use of the land to residential and the retention of the structures with regard to development plan policy and national planning policy. The benefits of this case centre on the personal circumstances of the occupants who would inevitably experience the permanent loss of their home should this appeal be dismissed.
42. As is my duty, I have taken into account the appellant's concerns regarding human rights violations with particular regard to the family. With respect to the circumstances drawn to my attention, this could represent an interference with their rights under Article 8 of the European Convention on Human Rights, as

incorporated by the Human Rights Act 1998 that bestows the right to private and family life and for the home. This right is not absolute and interference may be justified in the public interest, subject to proportionality.

43. I am also mindful of Article 8 the rights of a child should be viewed in the context of Article 3(1) of the United Nations Convention on the Rights of the Child. The best interest of the children is a material consideration.
44. In addition, in exercising my function on behalf of a public authority, I am also consciously aware of my duties under the Public Sector Equality Duty (PSED) contained within the Equality Act 2010 which sets out to eliminate discrimination, harassment and victimisation, advance equality and foster good relations, and the protected characteristics under the PSED. Children have the protected characteristic of age.
45. Matters in relation to the suitability of the location of the proposal for a residential change of use of the land is a matter of legitimate public interest as well as the impact upon the character and appearance of the local area, and the intrinsic beauty of the countryside. I apply substantial weight to the harm the proposal would cause to these matters.
46. Whether the policy objectives could be met by other means to impose landscaping around the site that would provide some screening effect would not be sufficient to overcome the serious and unacceptable harm to the character and appearance of the local area within the countryside that carries significant weight against a grant of planning permission. A temporary permission for the family to continue to reside here could be explored. However, I am satisfied that alternative residential accommodation can be sought for the family with the assistance from the Council and, most importantly can allow the children to remain in their respective schools. I apportion this significant weight in the balance. Therefore, interference that would arise to the family is necessary in the circumstance to protect the change of use of the land and the character and appearance of the local area and the intrinsic beauty of the countryside in accordance with the relevant planning policies. The harm that I have identified carries significant weight against a grant of planning permission. The protection of the public interest I reason cannot be achieved by means that are less interfering with their rights. By not granting the proposal would therefore be a proportionate response that would not violate the family's human rights.
47. In reaching this view, I have also had due regard as part of my decision-making process under the PSED, as well as under Article 8. I have found that imposing conditions as cited above, would not overcome the identified harm. The harm caused by the proposal outweighs its benefits in terms of eliminating discrimination against persons with the protected characteristics of age, advancing equal opportunity for those persons and fostering good relations.
48. Therefore, on balance, I am satisfied that the harm which would be caused by the development outweighs the other considerations to the extent that the proposal should not be granted.

Conclusion

49. I have considered all matters that have been raised and conclude that the proposal would conflict with the development plan as a whole and there are no other material

considerations which lead me to determine the appeal otherwise than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

Alison Scott

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Andrew Moss	Chartered Town Planner Ward Hadaway LLP
Miss Anna Thorpe	Trainee Solicitor Ward Hadaway LLP

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Helen Boston	Chartered Town Planner
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INTERESTED PARTY

Mrs Nicola White	Resident tenant of Stokesley Tractors Ltd
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