



Appeal Decision

Hearing held on 14 January 2025

Site visit made on 14 January 2025

by **Mr R Walker BA HONS DIPTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Appeal Ref: APP/E3715/W/24/3352092

Dunchurch Park Hotel and Conference Centre, Rugby Road, Dunchurch, Warwickshire CV22 6QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for 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 Signature Group Limited against Rugby Borough Council.
 - The application Ref is R24/0405.
 - The application sought planning permission for ancillary accommodation comprising 40 cabins on a temporary basis for 18 months without complying with conditions attached to planning permission Ref R22/0193 (appeal Ref: 3318322), dated 31 July 2023.
 - The conditions in dispute are Nos 1 and 2 which state that: In respect of condition 1 “*Within 18 months of the date of this decision, the temporary ancillary accommodation cabins hereby permitted, together with any associated plant and materials, shall be removed from the site in their entirety and the car park where the cabins are located shall be reinstated to its former use and condition*” and in respect of condition 2: “*The temporary ancillary accommodation cabins hereby permitted shall be retained and operated in accordance with the following approved plans and documents: D03 Rev A; A/21/_/02 Rev B; D02.1; D02.2; Application Form (dated 7 March 2022); Planning and Heritage Statement (dated March 2022); Addendum to Planning Statement (dated 14 June 2022)*”.
 - The reasons given for the conditions are: In respect of condition 1 “*In the interest of certainty, safeguarding the significance of relevant designated heritage assets, protecting the general amenities of the area, and reflecting the terms upon which both planning permission has been sought and the suitability of the development has been assessed*” and in respect of condition 2 “*In the interests of certainty*”.
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Decision

1. The appeal is allowed and planning permission is granted for ancillary accommodation comprising 40 cabins on a temporary basis for 18 months at Dunchurch Park Hotel and Conference Centre, Rugby Road, Dunchurch, Warwickshire CV22 6QW in accordance with the application Ref R24/0405, without compliance with condition numbers 1 and 2 previously imposed on planning permission Ref R22/0193 (appeal Ref: 3318322) dated 31 July 2023 but subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Signature Group Limited against Rugby Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The cabins that are the subject of this appeal are in situ. The original permission¹ was proposed, and allowed at appeal, for a period of 18 months and is due to expire on 31 January 2025. The appeal before me, seeks to extend this period for a further 18 months, by reimposing condition 1 (the temporary permission condition) and reimposing an amended condition 2 (the plans and document condition).
4. This appeal results from the Council's failure to determine the application within the prescribed period. As such, there is no formal decision on the application as jurisdiction over that was taken away when the appeal was lodged. Nonetheless, the Council has provided the reasons that it would have refused the application if it had been empowered to do so.
5. As the scheme relates to listed buildings, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

6. The main issues are whether the conditions should be varied, having regard to the effect of the development upon:
 - the setting and thereby the significance of the Grade II* listed building, known as Dunchurch Lodge;
 - the setting and thereby the significance of the Grade II listed building, known as Kitchen Garden Walls, Fruit Rooms & Glasshouse; and
 - the significance of the Grade II listed Registered Park and Garden, known as the Dunchurch Lodge Registered Park and Garden.

Reasons

Special Interest/Significance

7. Dunchurch Lodge is a country house and was built in 1906-07 by Gilbert Fraser in a renaissance revival style, in collaboration with the landscape architect Thomas Mawson. The high quality of detail of its principal elevations is impressive and it commands a prominent position, with the relationship to its estate and landscape beyond, still evident. The country house is the central element of the Dunchurch Lodge Registered Park and Garden (RPG). This is formed of a series of formal and informal terraces and gardens, paddocks and pleasure grounds and includes numerous individually listed buildings. The Kitchen Garden Walls, Fruit Rooms & Glasshouse is one such listed building and was built in 1908 by Thomas Mawson. Despite later alterations and additions within the estate the heritage assets survive well overall.
8. The main parties agreed that there has been no change in circumstances since the previous appeal decision in respect of the special interest of the respective heritage assets, in so far as they relate to this appeal. From the evidence before me, I have no reason to disagree with the Inspectors findings in this regard.

¹ Planning Application Ref: R22/0193 & Appeal Decision Ref: APP/E3715/W/23/3318322

9. Accordingly, the special interest/significance of the Dunchurch Lodge, is largely derived from the quality of its architectural features, historic fabric and associations, historic origins and connections with the wider estate and surroundings. Individually listed buildings within the RPG all form part of its setting and contribute to its significance. The special interest/significance of the Kitchen Garden Walls, Fruit Rooms & Glasshouse, is associated with the materials, its formal composition and layout of the walls, and historical associations with the estate. The significance of the RPG is its historical connection to Dunchurch Lodge, and historical associations, the formal garden spaces, and the well-vegetated nature of the designed parkland landscape.
10. The appeal site, prior to the introduction of the cabins, was used as car parking on land that was historically a back-of-house service area. The car park does not materially alter the experience of appreciating the Kitchen Garden Walls, Fruit Rooms & Glasshouse and the contribution that this setting makes to its significance. Still, the introduction of a hard surfaced carpark within the RPG has eroded, albeit to a minor degree, its historic interest and the contribution that this interest makes to the setting, and thus the significance of, the Dunchurch Lodge listed building.

Heritage Effects

11. In determining the previous appeal, the Inspector considered that there was a low level of harm from the cabins to the significance of the three heritage assets. There have been no changes in circumstances, and a further 18-month temporary period would not result in a level of permanence that would lead me to reach a different conclusion. In this regard, due to the number of cabins, and their utilitarian design, they are an incongruous feature within the RPG and the setting of the listed buildings. However, the level of harm is reduced due to their low profile and relatively discreet location within the estate in an area that has a reduced sensitivity.
12. There is no substantive evidence that any revenue generated by the occupation of the cabins would contribute to the long-term conservation of the heritage assets. Accordingly, I do not find any heritage benefits from retaining the cabins for a further temporary period.
13. Drawing the above together, the development fails to preserve the special interest of the Grade II* listed building known as Dunchurch Lodge, the Grade II listed building known as the Kitchen Garden Walls, Fruit Rooms & Glasshouse. As a result, the expectations of the Act have not been met and the development harms the significance of these designated heritage assets. Moreover, the development harms the significance of the Grade II listed RPG, known as the Dunchurch Lodge Registered Park and Garden.

Other Matters

14. There are several other listed buildings near the site, including within the grounds of the RPG and beyond its grounds. This includes, amongst others, the Church of St Peter (Grade II* listed) and the Stable Block at Dunchurch Lodge (Grade II listed). The site is also within the setting of the Dunchurch Conservation Area (CA). No harm was identified by the Inspector when considering the original permission and, there have been no changes in circumstances, in respect of the physical location and appearance of the cabins, that would lead me to reach a

different conclusion in this appeal. In this regard, I am satisfied that there would be no harmful impact on the contribution that setting makes to their special interest/significance from a further temporary period in this instance.

15. There is no substantive evidence that the occupation of the cabins has harmed the capacity of local services, facilities, the highway network, parking in the vicinity, trees, or has resulted in a risk of public disorder, anti-social behaviour, crime, or lost privacy or harm to living conditions of nearby residents. In this regard, such matters do not weigh against the appeal before me. Matters relating to house prices, whether or not there are unauthorised works within the hotel grounds, or matters relating to the use of the hotel building are not matters for my consideration as part of this appeal in relation to the cabins.
16. The hotel is being used for accommodating asylum seekers at present and there is no substantive evidence that this would not continue even if the cabins were removed. In this regard, there would be no harmful effects on the local economy from a further temporary period as the hotel could continue to be unavailable for the wider public, irrespective of the outcome of this appeal.

Public Benefits and Heritage/Planning Balance

17. Paragraph 212 of the National Planning Policy Framework (the Framework) (2024) advises that great weight be given to the conservation of designated heritage assets (and the more important the asset, the greater the weight should be). Paragraph 213 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
18. With reference to paragraphs 214 and 215 of the Framework, in finding harm to the significance of the designated heritage assets, the magnitude of that harm should be assessed. In this instance, given the modest scale and the location of the cabins, and the temporary and reversibility of the scheme, the harm to the designated heritage assets, individually and cumulatively, is less than substantial and at the lower end of the spectrum, but nevertheless of great weight. Under such circumstances, paragraph 215 advises that this harm should be weighed against the public benefits of the development. Moreover, the workings of sections 66(1) of the Act mean that the harm to the listed buildings must be accorded considerable importance and weight.
19. As set out, I have not found any heritage benefits in this instance. Accordingly, the primary benefits from the appeal relate to the continuing support to the asylum system that the cabins provide. The cabins are occupied by families and would continue to provide this role. Further benefits would arise in maintaining the support and education of existing, and future occupiers of the cabins, that is provided in this location in a safe and humane environment. These are matters of significant weight considering the destitute circumstances of those seeking asylum.
20. I recognise that the Government has committed to reduce the reliance on hotels to support the asylum system. In this regard, the Council provided a copy of a letter from the Home Office dated 29 November 2024 during the Hearing. This stipulates that over the long term the steps taken by the Government to date will reduce the reliance on hotels. However, the letter also stated that it has no plans to cease the use of the Dunchurch Park Hotel as temporary accommodation for asylum

seekers. This reaffirms the Home Office's position from its previous letter dated 23 August 2024, advising that it would welcome the opportunity to continue using the site and cabins and had no end date in sight.

21. The Council consider that the appellant has not demonstrated an acute need for the accommodation, referring to the language used by the Inspector in the previous appeal decision. However, considering all the evidence before me, I have no doubt that the cabins would continue to be occupied by asylum seekers were I minded to allow the appeal. In this regard, I am satisfied that there remains a need in the short term. The precise acuteness of the need on a scale, or whether such need could be accommodated elsewhere, does not diminish the significant weight that I give to the benefits from the cabins at this site in the short term for families seeking asylum.
22. Overall, in my judgement, the weight given to the harm that would continue to occur from the development to the significance of the designated heritage assets, individually and cumulatively, is outweighed by the significant public benefits from the support to the asylum system for a further temporary period of 18-months. Accordingly, in terms of the Framework, the balancing exercise in paragraph 215 is in favour of the retention of the development for an additional temporary period.
23. As a result, the development also accords with Policy SDC3 of the Council's Local Plan (2019). This says, amongst other things, that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this will be weighed against the public benefits of the proposal.
24. The development conflicts with Policies NE3 and SDC2, in so far as they relate to the main issues. These say, amongst other things, that new development which positively contributes to landscape character will be permitted. However, the harm to the landscape is inextricably linked to the harm to the significance of the designated heritage assets. Moreover, I have found that the development complies with Policy SDC3 when the heritage balance is undertaken. In this regard, I conclude that overall, the development is in accordance with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.
25. I have been referred to the Human Rights Act 1998 and the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 in relation to the occupiers of the cabins. Given my conclusions in the heritage and planning balance, there is no basis to consider that the human rights of occupiers of the cabins could be interfered with or violated by retaining the cabins for a further 18-month period. Moreover, in performing my function on behalf of a public authority I have also exercised my duties under the PSED. This sets out the need to eliminate unlawful discrimination, harassment, victimisation and any other prohibited conduct, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Again, given my conclusions above, the retention of the cabins for a further 18-month period would be consistent with the aims of the PSED.

Conditions

26. Decision notices for the grant of planning permission under section 73 are also required to restate the conditions imposed on earlier permissions that continue to

have effect. It also provides the power to not attach conditions, which were previously imposed, or to attach modified versions of them.

27. Condition 1 is reimposed with the 18-month temporary period now effective from the date of this appeal decision. It is necessary in the interests of certainty and to safeguard the significance of the relevant designated heritage assets and general amenities of the area. The varied plans and documents condition (condition 2) is necessary to provide certainty.
28. Condition 3 is reimposed to ensure that the cabins are used only in the capacity of ancillary hotel accommodation. This is necessary to reflect the terms upon which planning permission has been sought and the suitability of the development has been assessed, and in the interests of the general amenities of the area.
29. Condition 4 is necessary to ensure that the entrance gates are operated in conjunction with the agreed operating strategy for vehicles in the interests of highway and pedestrian safety.
30. For the reasons set out by the Inspector in the previous appeal I do not consider it necessary to insert an occupancy condition. Nor is it necessary to include a condition requiring the removal of the cabins if the need for asylum seekers ceases, given the short-term nature of the temporary permission.

Conclusion

31. For the reasons set out above, the appeal is allowed.

Mr R Walker

INSPECTOR

Schedule of Conditions

- 1) Within 18 months of the date of this decision, the temporary ancillary accommodation cabins hereby permitted, together with any associated plant and materials, shall be removed from the site in their entirety and the car park where the cabins are located shall be reinstated to its former use and condition.
- 2) The temporary ancillary accommodation cabins hereby permitted shall be retained and operated in accordance with the following approved plans and documents: D03 Rev A; A/21/_/02 Rev B; D02.1; D02.2; Application Form (dated 03 May 2024); and Heritage Impact Assessment (dated May 2024)
- 3) The temporary accommodation cabins hereby permitted shall be occupied and used as ancillary hotel accommodation only.
- 4) The existing gates at the entrance to the site shall be operated in conjunction with the agreed operating strategy for vehicles that arrive without appointment or authorisation to enter, which is to allow them through the barrier and, under supervision, to drive the short distance to the site's short stay parking area to allow them to manoeuvre and immediately leave the site in a forward gear.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Saira Khabir Sheikh KC	Counsel for the Appellant
Nick Collins	Portico Heritage
Ben Derbyshire	Signature Hotel Group
Sophie Rae	PMV Planning

FOR THE LOCAL PLANNING AUTHORITY:

Christian Hawley	Counsel for the Council
Chris Davies	Rugby Borough Council

ADDITIONAL DOCUMENTS:

- Home Office Letter dated 29 November 2024