



Appeal Decision

Site visit made on 23 July 2025

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2025

Appeal Ref: APP/A0665/Q/25/3362181

Kinderton Mobile Home Park, Cledford Lane, Middlewich, Cheshire, CW10 0JS

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to discharge a planning obligation.
- The appeal is made by Mr T and Mrs A M Herring against the decision of Cheshire West and Chester Council.
- The development to which the planning obligation relates to discharge a planning obligation under Section 106 (Unilateral Undertaking) dated 24.08.17 relating to 17/00018/FUL limiting the number of park homes within Area A (8) and Area B (15) and a total number of 43 park homes across the site.
- The planning obligation, dated 24 August 2017, was made between Cheshire West and Chester Council and Mr T and Mrs A M Herring.
- The application Ref 25/00090/106, dated 7 January 2025, was refused by notice dated 17 February 2025.
- The application sought to have the planning obligation discharged.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. A request for the Officer Report (the original report) to planning application 17/00018/FUL (the original application) was made to the Council during the appeal process for completeness, given certain matters raised within the evidence. This was provided by the Council on 23 September 2025 with the Appellants copied into the correspondence for information only. The main parties have not been asked for any comments on this document, as they will already be familiar with it, given their current and historic association with the site. Therefore, no party will be prejudiced by taking this course of action and considering the original report in my determination of the appeal.

Background

3. The Legal Agreement (the UU) on the original application comprised of obligations in relation to the number of mobile homes situated on the site. Accompanying the UU, is the Land Use Plan, which identifies the site, including the red and blue lines and the internal sub-division in reference to the Schedule. The Schedule comprises of the following obligations: firstly, notwithstanding planning permission (PP) 1249 dated 12 June 1969 and PP 1330 dated 24 April 1975 not to permit more than 8no. mobile homes situated on site A at any time. Secondly, notwithstanding PP 14/1369C dated 13 May 2014 not to permit more than 15no. mobile homes situated on site B at any time. Finally, not to permit more than 43no. mobile homes in total to be situated across Site A, Site B and the Development Site and the land hatched blue on the Plan at any time.

4. The UU is more than 5 years old. Section 106A of the Town and Country Planning Act 1990 (the Act) therefore allows its modification or discharge, including by application to the Council. In such circumstances, the scope of the determination can only be that

the UU shall continue to have effect without modification; if the obligation no longer serves a useful purpose it shall be discharged or, if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to modifications specified in the application, that it shall have the effect subject to those modifications.

5. The Appellants wish to remove the 43no. limitation for mobile homes on the site, to enable a further 4no. mobile homes to be situated on the eastern area referred to as, the Development Site in the UU, where 5no. mobile homes are now situated following the approval of the original application. It is the intention of the Appellants to submit a Lawful Development Certificate to install the additional mobile homes without any planning consent, should this appeal be successful.

Main Issue

6. With regard to the above, the main issue is whether the UU continues to serve a useful purpose.

Reasons

7. Policies STRAT 1 and STRAT2 of the Cheshire West and Chester Council Local Plan 2015 (Part 1) (LP1) provides a settlement hierarchy for the borough and seeks to focus development in the most sustainable locations, in order to minimise the loss of greenfield sites, protect the natural environment, and reduce the need to travel. LP1 Policy STRAT 9 also seeks to restrict development within the countryside to that which requires a countryside location and cannot be accommodated within identified settlements, amongst other things.

8. LP1 Policy ECON3 has been cited on the Council's decision notice, where its focus is promoting the creation of new tourism opportunities where they would be of a suitable scale and type for the location, and preferably located within urban areas, key service centres or local service centres. The Appellants confirm that Kinderton Mobile Home Park (the Park) is a retirement park which specifically caters for the over 55s retirement and semi-retirement market. Whilst it would appear that the retirement park offers little in the way of tourism, I do note that LP1 Policy ECON3 also sets out that camping and caravan sites will be supported where there is an unmet need, which is where I see the relevance.

9. The Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (2019) (LP2). Whilst the Council's decision notice on the planning application, subject of this appeal and for an earlier decision¹ for a similar application refer to LP2 as 'emerging', I have no doubt that LP2 was adopted at the time when both decisions were made by the Council.

10. LP2 Policy DM 9 adds further detail to LP1 Policy ECON3 and it requires all types of visitor accommodation to meet the requirements of LP1 Policy STRAT 9 and to utilise existing buildings. LP2 Policy DM 10 supports proposals for caravan and camping sites for tourism, where amongst other things, they are also in line with LP1 Policies ECON3 and STRAT 9, and LP2 Policy DM 9, and there is good accessibility via major roads and public transport. Other than the links to LP1 policies, given that LP2 Policies DM 9 and DM 10 specifically refer to 'visitor accommodation' and 'tourism use' respectively, I am not convinced of their relevance on this appeal, given the nature of the Park and the descriptions of its occupants within the evidence. Although, I do acknowledge an appeal

¹ 24/00339/106

decision² for 4no. holiday lodges that was dismissed in 2021, but for the reasons set out surrounding tourism, this case has little bearing on the appeal before me.

11. The Appellants are very clear in their submission that in their view the UU 'was not a legal agreement predicated on the Development Plan policies at the time relating to the preferred location of park homes and/or additional park homes in the open countryside', and the UU is 'preventing development that could and should ordinarily take place'. During the course of this appeal, a copy of the Officer Report (the original report) that accompanies the decision notice for the original planning application was requested.

12. There is no doubt that the UU is preventing an additional 4no. mobile homes being added to the site. However, I do not agree that adding additional mobile homes to the Park could or should ordinarily take place. The original report provides clarity, surrounding the approval of the original application and the inclusion of the UU. The original application was for the relocation of 5no. approved mobile park homes together with environmental improvements. The purpose of the original application was to reduce the overall density in the site, facilitate improvements to the entrance and help the park to reach 5-star status, along with helping the economic sustainability of the established business.

13. As part of this process, 5no. mobile homes/pitches were required to be relocated onto agricultural land that did not form part of the mobile home park, although this area was adjacent to the existing mobile homes, which was also in the ownership of the Appellants. Within the original report, it was established that the development would be contrary to the aim of LP1 Policy STRAT9, due to its location in the countryside. However, it is clear that the UU formed a significant material consideration in justifying the development on sustainability grounds, as it specifies amongst other matters, the maximum number of mobile homes permitted at the site. The UU ensured that the existing number of mobile homes present at the time of the original application, did not exceed the 43no. mobile homes already permitted.

14. The Appellants refer to the determination of a Lawful Development Certificate³ (the LDC) and the UU preventing 4no. additional mobile homes to be sited on the eastern element of the site. I have no doubt that this is the case, as it is apparent from the original report that this was the intention from the outset, in order to facilitate the expansion and improvements of the Park and to enable a positive decision, due to the conflict with the development plan. Without the UU, it is highly likely that the original application would have been refused. If anything, the LDC demonstrates exactly why the UU formed part of the original application. In this regard, I note the proposal for 4no. additional mobile park homes on the eastern element of the Park, which was refused and then dismissed at appeal⁴. The 2020 decision would have resulted in a similar outcome, to this appeal if I was minded to support the discharge of the UU. The decision also confirms the Park 'is occupied on the basis of it providing a permanent residence for its occupiers', which is different to the proposed 'holiday lodges' subject of the 2021 decision.

15. Given my findings above on why the UU formed part of the original application, it is apparent that in the absence of substantive evidence to the contrary, there have been no changes to the sustainability credentials of the Park, since the determination of the original application or the 2020 and 2021 decisions. Both LP1 and LP2 were adopted at the time of the signing of the UU and are still relevant in determining whether the UU

² APP/A0665/W/21/3273389 (the 2021 decision)

³ 23/03246/LDC

⁴ APP/A0665/W/18/3219043 (the 2020 decision)

serves a useful purpose. The UU still helps the overarching requirements towards providing sustainable development, which is also consistent with the requirements of the National Planning Policy Framework.

16. For the reasons given, I conclude, it has not been adequately demonstrated that the UU would not continue to meet a useful purpose. The discharge of the UU would allow for 4no. additional mobile homes to be sited in an unsustainable location, albeit without the need to first secure planning permission, contrary to the objectives of the development plan. Furthermore, no other modifications to the UU have been proposed for me to consider.

Other Matters

17. I note there have been representations from interested parties during the assessment of the application and at appeal stage. The concerns raised by existing residents during the appeal, relate to highway safety, loss of open space and infrastructure/drainage, amongst other things. I also note that 2no. existing residents are in support of the proposal. However, whilst these comments, particularly those in support of the proposal represent material considerations, they do not alter my decision.

18. Reference has been made towards the refusal of a previous application⁵ for an almost identical proposal to that subject of this appeal, where an appeal⁶ was submitted, but turned away, due to technicalities making the application incomplete. This is useful background information, but it has no bearing on my decision. I have also noted the comments from the Appellants about the way the Council handled the application, but these do not go to the planning merits of the case. I have considered this appeal on its own particular merits and concluded that the UU still serves a useful purpose.

Conclusion

19. My determination must be made in accordance with the requirements of the Act, which is clearly set out above. Consequently, and for the reasons given above, I conclude the appeal should be dismissed.

W Johnson

INSPECTOR

⁵ 24/00339/106

⁶ APP/A0665/Q/24/3352839