



Appeal Decision

Site visit made on 11 December 2012

by Les Greenwood BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 January 2013

Appeal Ref: APP/E2205/A/12/2177879

Silver Birches, Ruckinge, Ashford TN26 2EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Crown Parks (Estates) Ltd against the decision of Ashford Borough Council.
 - The application Ref 12/00044/AS, dated 16 January 2012, was refused by notice dated 26 March 2012.
 - The development proposed is the change of use of the land for the siting of 26 holiday lodges (legally twin unit caravans).
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Decision

1. The appeal is allowed and planning permission is granted for change of use of the land for the siting of 26 holiday lodges (legally twin unit caravans) in accordance with the terms of the application Ref 12/00044/AS, dated 16 January 2012, subject to the conditions in the attached Schedule.

Main issues

2. The main issues are: (i) the sustainability of the proposal; (ii) the effect of the proposal on the character, appearance and landscape of the area; and (iii) the effect of the proposal on the living conditions of neighbours, with regard to potential noise disturbance. These issues must be considered in light of any potential alternative development that could form a 'fall back' position.

Reasons

Fall back position

3. The council has confirmed that there is an extant planning permission for 39 A-frame holiday lodges on this site. The current appeal is for an alternative scheme for 26 lower units falling within the legal definition of caravans. The appellant has submitted a Unilateral Undertaking dated 10 December 2012 under S106 of the Town and Country Planning Act 1990 (as amended) covenanting that the existing planning permission would not be implemented if this appeal is allowed. The Council has confirmed that it is satisfied that the submitted undertaking is validly executed and has raised no objection to its contents. I am satisfied that the undertaking meets the appropriate tests in the National Planning Policy Framework (NPPF) and have given it due weight.
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4. In a previous appeal (Ref APP/E2205/A/09/2103543) relating to a similar proposal, the Inspector found that there was no real possibility that the approved scheme would be implemented. He therefore gave very little weight to this potential fall back position and dismissed the appeal.
5. That previous judgement was made on the basis of the information available at that time, including a lack of evidence that the A-frame lodges were still in production. The appellant argues strongly that the approved scheme would proceed if this appeal is dismissed and has obtained a quote for construction of the approved units. This indicates that the A-frames could be provided and that their price would be roughly comparable to that of the approved units. No significant counter evidence regarding availability or costings has been submitted by the Council or objectors. The appellant has furthermore begun to invest in servicing the site. This suggests that, despite the long period of time during which the site has not been developed, the appellant is now committed to moving forward.
6. On the basis of current evidence, it appears to me that there are no clear physical or financial reasons why the extant permission would not likely be implemented. I also see indications that the appellant is prepared to follow through with the previously approved development and find no reason why any issues regarding the specific conditions of that permission could not be dealt with. I therefore conclude that it is likely that the extant permission would be implemented if this appeal fails. I give this fall back position substantial weight in my consideration of the appeal.

Sustainability

7. The site is remote from any settlement, services or public transport provision. There is a rail station and shops at Hamfleet, but this is well over a mile away and much of the road in between is unlit and lacks footways. Even though a proposed shuttle mini-bus operation would assist in reducing car journeys, most users of the site would no doubt rely on the private car for transport. If seen as a wholly new development, then the proposal would be inherently unsustainable, even though it would make use of a semi-derelict site.
8. However, the proposal for 26 units represents a significant reduction in scale compared to the 39 permitted. Although the new units would be somewhat larger, the proposal would still represent a significant reduction in floorspace as well. Due to the reduction in the scale of development and the proposed mini-bus scheme, the proposal would be expected to generate less traffic than the approved scheme.
9. I conclude that the current proposal would be more sustainable than the approved scheme, effectively making it a sustainable development. It therefore accords with the emphasis on sustainable development in the NPPF, Policy CC1 of the South East Plan (SEP) and Policy CS1 of the Ashford Borough Core Strategy (CS). It also accords with CS Policy CS17's aim to encourage sustainable growth of tourism and is in line with SEP Policy TSR5's emphasis on caravan sites and holiday parks as a vital component of the leisure accommodation offer of the region.

Character, appearance and landscape

10. The site is within an attractive, heavily wooded area of countryside. The proposal would inevitably intensify the use and development of what has for many years been a little used site. Although the site is well screened by existing trees from most views, these trees are outside of the control of the appellant and could be felled in the future. The site is also seen from an adjoining public footpath.
11. Again, however, I see clear advantages in this scheme in comparison to the previously approved scheme. The units would be much lower and located slightly further away from the boundary, allowing some space for new landscape planting to help screen the site and blend it into the countryside. In both schemes, the timber construction of the units would also help reduce the visual impact on this woodland setting.
12. On this basis, I conclude that the proposal would not harm the character, appearance or landscape of the local area. It therefore accords with the aims of CS Policy CS1, Ashford Borough Local Plan Policy GP12 and the Council's Development Plan Document *Tenterden and Rural Sites* Policy TRS17 to ensure that development in the countryside complements and protects the landscape and its scenic value. It also accords with the NPPF's recognition of the intrinsic character and beauty of the countryside.

Living conditions

13. There are a number of houses near to the site, including 2 flanking the site access. There are also some existing mobile homes that are closely associated with the appeal site, though outside of its formal boundary. The proposal would cause a substantial increase in traffic and general activity which would potentially disturb other local residents at these houses and mobile homes. However, this is effectively a proposal for a residential-type use and should not be expected to be overly noisy. Any noise nuisance which may arise would still be subject to other, non-planning legislation.
14. Once again, I compare the appeal scheme to the permitted scheme. Due to the reduction in the number of units, the appeal scheme would be less likely to cause disturbance than the approved scheme. I therefore conclude that it would not unacceptably harm living conditions at neighbouring properties and accords with the NPPF's aim to achieve a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

15. I have taken into consideration the objections from the Parish Council and local residents, many of which are dealt with above. Concerns regarding lighting, landscaping and drainage can be dealt with by means of conditions. I see no particular reason why the site should cause exceptional fire risk or present special problems for access by emergency services.

Conditions

16. I have considered the conditions suggested by the Council in light of the advice in Circular 11/95, amending the wording in places in order to make them more concise.
17. I impose the standard 3 year commencement condition because, although works have recently been carried out on site, these do not clearly constitute a commencement of this development. I also impose a condition listing the approved plans and specifying that the caravans shall only be sited as approved, for the avoidance of doubt and in the interest of proper planning. Further conditions controlling the appearance of the caravans, soft landscaping and external lighting (to minimise light pollution and to ensure that low level bollard-type lighting is used for shared spaces as indicated on the submitted site plan) are justified due to the sensitive rural character of the site.
18. A condition restricting occupation to holiday-makers (with the exception of 1 caravan restricted to use for a site manager), is necessary in the interest of sustainability. I also consider it necessary and reasonable for a site register of occupants to be maintained in order to help monitor this condition. I am not convinced, however, that there is a need to condition the removal of the site manager's caravan specifically, in the event of site closure.
19. Conditions are also needed in respect of surface water drainage, floor levels, caravan anchoring and roadways in order to help minimise flood risk. In the case of the roadways, the condition is also necessary in order to protect the character and appearance of the area. An improved access is needed for highway safety reasons. Finally, a condition is necessary in order to secure the proposed provision of a mini-bus service, in the interest of sustainability.

Conclusion

20. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Les Greenwood

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: location plan 51012/C/01 and site layout plan 5101/C/02 (also labelled 1/357/01m), including in respect of the number and size of caravans. There shall thereafter be no increase in the number or size of caravans sited.
3. Prior to the siting of each of the lodges or caravans hereby permitted, full details of its design and appearance shall be submitted to and approved in writing by the local planning authority and the approved details shall be complied with in full.
4. The caravans hereby permitted, apart from the site manager's caravan, shall be used for holiday accommodation only and shall not be occupied by any person as his or her sole or main place of residence. The occupation of the site manager's caravan, which shall be sited on the plot marked 'Site Manager' on approved drawing No 5101/C/02, shall be limited solely to a person employed to manage the site and his or her dependents and shall not be used as a separate unit of residential accommodation for any other person.
5. An up to date register shall be kept, in legible English, of the main or home address of each of the plot owners and, if different, of each of the occupiers using each caravan. This register shall be made available for inspection by the local planning authority at the site within 48 hours of written notice being given by the local planning authority.
6. No development shall take place until a scheme to dispose of surface water has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and subsequently retained and maintained in an effective condition.
7. Finished floor levels of all caravans hereby permitted shall be a minimum of 41.26m Above Ordnance Datum.
8. All caravans hereby permitted shall at all times be tethered or anchored in position in accordance with details submitted to and approved in writing by the local planning authority.
9. No development shall take place until details of access roads, including levels and materials to be used, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
10. No development shall take place until details of an improved vehicular access into the site with 6m radius turnouts have been submitted to and approved in writing by the local planning authority. The new access shall be laid out and constructed in accordance with the approved details prior to the occupation of

any of the approved caravans and shall thereafter be maintained available for use in accordance with the approved details.

11. No development shall take place until full details of hedge and tree planting for the site and a timetable for implementation of these works have been submitted to and approved in writing by the local planning authority. The works shall be carried out as approved. Any of the approved trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written approval to any variation.
12. No external lighting shall be installed within the site other than in accordance with a scheme submitted to and approved in writing by the local planning authority.
13. Prior to the occupation of any of the caravans hereby permitted, full details of the minibus scheme including hours of operation, size of vehicle and availability to site users shall be submitted to and approved in writing by the local planning authority. The agreed scheme shall thereafter be implemented and maintained.