



Appeal Decisions

Hearing Held on 11 September 2018

Site visit made on 11 September 2018

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 18 September 2018

Appeal A: APP/B9506/C/17/3191495

Land at The Beeches, Romsey Road, Ower, Romsey, SO51 6AF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Steve Day against an enforcement notice issued by New Forest National Park Authority.
 - The enforcement notice was issued on 17 November 2017.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the land affected for care and adult support purposes with associated stationing of a mobile home.
 - The requirements of the notice are 5.1 Cease the use of the land affected for care and adult support purposes. 5.2 Permanently remove the mobile home shown in the approximate position coloured blue on the plan attached to this Notice from the land affected. 5.3 Restore the condition of the land affected to its former condition and permanently remove from the land affected all associated items, paraphernalia and debris arising from the aforementioned requirements.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/B9506/W/17/3191526

The Beeches, Romsey Road, Ower, Romsey, SO15 6AF

- 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 Mr Steve Day against the decision of New Forest National Park Authority.
 - The application Ref 17/00710, dated 17 August 2017, was refused by notice dated 17 October 2017.
 - The development proposed is continued mixed use of land and siting of timber clad mobile home for use as day room in conjunction with care and adult support use.
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Decisions

Appeal A – The Enforcement Appeal

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land at The Beeches, Romsey Road, Ower, Romsey, SO15 6AF, as shown on the plan attached to the notice, for care and adult

support purposes with associated stationing of a mobile home subject to the following conditions:

- 1) The use hereby permitted shall be carried on only by Mr Max Day.
- 2) When the use ceases to be carried on by Mr Max Day (or at the end of 3 years whichever shall first occur,) the use hereby permitted shall cease and all materials and equipment brought on to the premises in connection with the use, including the mobile home, shall be removed.
- 3) The use hereby permitted shall only take place on Mondays to Fridays inclusive and not at all on Saturdays or Sundays.

Appeal B – The s78 Appeal

2. The appeal is dismissed.

Preliminary Matters

3. The enforcement appeal is made only on ground (a) and so the issues for that and the s78 appeal are the same and I shall deal with them together below.

Reasons

4. The Beeches is a house with a large garden that stands in the corner of Old Salisbury Road to the north and the A36 Romsey Road to the east. To the west and south is a small private road which loops round the garden providing access to a number of other houses. The whole is contained within the New Forest National Park, the boundary of which runs along the A36. A large portion of the garden has been fenced off and turned into a small holding, which supports a number of goats, sheep, chickens and alpacas along with their associated fencing, field shelters, feeding troughs etc. There are also various other structures which are directly associated with the unlawful use, in particular a mobile home.
5. The surrounding area is not typical of the New Forest as within a few hundred metres is a major roundabout junction where the A36 joins the A3090 and filters onto junction 2 of the M27. Consequently, a number of businesses have grown up in the area serving passing traffic, of most relevance, directly opposite the site and within the park boundary is a Premier Inn with an associated pub and 'Wacky Warehouse'. The hotel has recently been granted planning permission for a major extension, work on which appears to be underway. Across the A36, is a large area of business units in what appears to be an old farm, and what is apparently a temporary landfill site in the field next to the road. A few hundred metres to the west is Paultons theme park with large areas of car parking and between that and the site is a golf course.
6. It is clear from the evidence provided that the small holding was developed by Mr and Mrs Day as a hobby enterprise and should the appeals fail, will continue on the site. However, their son Max has recently started a business looking after adults with learning difficulties. This care is mainly undertaken in the adults' own homes, but with some outside visits. As part of this, the clients, or service users, are taken to the appeal site where they help with looking after the animals, learning fencing, woodwork, stock and animal care skills. A mobile home has been stationed on the boundary of the site to act as a day room and bad weather shelter for the service users and their carers. It is this

activity that the Park Authority are concerned about and it is against this use and the mobile home that the notice is directed.

7. Firstly, it is important to be clear what is going on at the site. The notice alleges a mixed use of the land and stationing of a mobile home. The appellants argue there is no business use going on but it is clear to me the visits by the service users and their carers are only made in association with the business being run by Max Day. Although no money changes hands that does not alter the nature of the use of the land. There is, therefore, a mixed use going on of a small holding and a business, the latter being a use for care and adult support purposes. It follows there are three policies from the Core Strategy¹ that are relevant, DP1, which deals with general development principles, CP8 which seeks to protect local distinctiveness and CP14 which deals with small scale business development.
8. The Authority had no objection to the use on residential amenity grounds but they were concerned that it was contrary to policy and that it harmed the character and appearance of the site and so the special qualities of the National Park. The neighbours seemed to be in general support and one turned up at the Hearing to say so. A third party from further away, but who it seems ran a different adult care business objected and the Parish Council changed their minds from support to opposition once they read the officer's report. A Local Councillor was sympathetic but concerned about the impact of an intensification of the use if the business expanded and that it might set a precedent for a proliferation of mobile homes.

Impact on the character and appearance of the area and on the National Park

9. The location of the site is as described above. Despite the surrounding development, this is not a scruffy or unattractive area and the development is interspersed with fields and woodland. However, it is not an area that exhibits the "special qualities" of the National park as listed in Table 5 of the Statement of Special Qualities. I accept that as a somewhat marginal edge of park area it is perhaps more vulnerable to change but that is a different argument dealt with below.
10. The site lies in the West Wellow Heaths and Commons Landscape Character Area but the Authority were unable to point to any specific attributes, features or issues identified in the LCA that the use would affect.
11. The use is low key and operates on weekdays in daylight only. Essentially a small number of people are caring for and working on the land in much the same way as might happen on such a small holding in any event. At present there are 4 service users which could lead to 9 people on the land at any one time (4 service users + 4 carers + Max). This would not seem to be an excessive number of people to me, nor would they be doing anything out of the ordinary that wouldn't already have the potential to happen on the site regardless. It is difficult to see what harm to the character and appearance of the area is caused by a use that is slightly more intense than if just carried out by Mr & Mrs Day.
12. The mobile home is stationed against the boundary with the A36 and partially hidden by a hedge. It has been clad in horizontal wooden planks and from a

¹ Core Strategy and Development Management Policies DPD (2010)

distance blends in well in an area with numerous houses, sheds and stables, not to mention larger commercial developments nearby. From the road it is clearly visible but has no particular negative impact. It is not unusual to see such structures on small holdings or in large gardens – it could be taken for a large shed or garden room and if necessary could be hidden from close views by letting the hedge grow up. Taking this altogether I consider the development causes no harm to the character and appearance of the area and so is in accord with policies DP1 and CP7.

Small scale business development

13. Outside of the four defined villages, policy CP14 allows for small scale employment development that helps the well-being of local communities. However, as the appellant pointed out, this policy does not seem to be directly applicable. It refers only to the re-use, redevelopment or extension of buildings or existing employment sites, rather than the use of land. But it does explain that *"it is important to support new small scale business development throughout the National Park to provide employment and services needed by local communities"*. This would seem to be the purpose of the policy. Max Day's adult care business is registered and run from an office in Southampton, and deals with service users introduced to it by Hampshire County Council. It is thus not a New Forest specific business. However, of the four service users currently on its books 2 live in the National Park and two live in Lymington on the edge of the Park. It employs 18 people although it was not suggested that any currently live within the National Park.
14. It would seem to me that the use is a business that benefits local communities and it seems that it directly does so by caring for two members of the local community. In that sense, in so far as the policy is relevant the use would seem to fit with it. CP14 goes on to provide *"particular encouragement"* for businesses helping maintain the land based economy and the cultural heritage of the National Park as well as contributing to the understanding and enjoyment of its special qualities. By providing an opportunity for the service users to feed and care for animals on a smallholding and to develop some skills and understanding of woodland crafts and stock management, the use would seem to fall squarely within the definition of a business that ought to be given encouragement.
15. There was a subsidiary argument that if the use fell outside any of the specific policies of the Authority then it was not a use that ought to be encouraged within the National Park and so was, by definition, contrary to the development plan. I'm not sure this can be the case. The Core Strategy cannot be required to have a specific policy for every possible use or activity that might want to locate within the National Park. But it does, as it says in Chapter 5, set out the spatial objectives for protecting and enhancing the natural environment of the National Park and there are plenty of general policies, such as DP1 or CP8 that do just that. In my view policy CP14 is the closest relevant policy to the development concerned, and as discussed above I consider the use is more or less consonant with that policy. However, if I were to set CP14 aside, I find no harm caused to the National Park, either by way of impact on the character of the local area or on the wider qualities of the Park itself. Consequently, I consider the use is in accord with the development plan and so shall allow the appeals and quash the notice. As the s78 appeal is for the same development,

to prevent two identical permissions being created I shall dismiss the s78 appeal.

Conditions

16. I have considered the impact of the use on the basis of its current operation with only four service users. The Authority and others are understandably concerned that the impact could grow if the business grows. Each registered user has a carer with them so even 8 users would be 16 people at least on the site, with associated car parking, extra comings and goings, noise and so on. The appellant offered to restrict the number of registered to users to no more than 6 at any one time, but I agree with the Authority that it would be very difficult to tell who was who if, for example, there were 14 people on site how many of them were registered users and how could one tell? Possibly an overall cap on numbers of adults on site at any time would be best.
17. However, the Authority suggested a temporary permission for 3 years and a personal condition would be the best way forward, which suited the appellant as well. This would enable the Authority to monitor the operation of the use and reconsider the need for an overall cap on numbers should a permanent permission be considered. The personal condition will need to be in the name of Max Day as he is the person who will carry on the use.
18. Car parking had been raised, but given the small numbers involved there is sufficient parking either inside the field gate access or in front of the main dwelling, so no specific conditions are required.
19. The appellant offered operating hours and days conditions. It was agreed that hours were effectively limited by daylight, but I consider there is a value in limiting days to Monday to Friday to provide a clear benchmark against which any future application can be measured.

Simon Hand

Inspector

APPEARANCES

FOR THE APPELLANT:

Deborah Slade MA, MSt, MSc, MRTPI
Steve Day
Vicky Day
Mark Barley – local resident

FOR THE LOCAL PLANNING AUTHORITY:

Paul Hocking BA, MSc, MRTPI

DOCUMENTS

1. Copy of report and plans for application for extension to Premier Inn