



Appeal Decision

Site visit made on 18 August 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2020

Appeal Ref: APP/B9506/W/20/3251690 Hedgerows, Lodge Drive, Woodfalls SP5 2NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Nigel Everett against the decision of New Forest National Park Authority.
 - The application Ref 20/00123, dated 18 February 2020, was refused by notice dated 14 April 2020.
 - The application sought planning permission to vary condition 1 of planning permission 07/92064, dated 22 November 2007, to allow continued use of land for siting of a residential mobile home and other domestic outbuildings for occupation by another family member.
 - Condition 1 states that: *"the use hereby permitted shall be carried on only by the applicant, Mrs Marion Everett, until such time as the applicant ceases to occupy the premises. When premises cease to be occupied, the use hereby permitted shall be discontinued, the mobile home, hardstanding on which it is stationed and any associated structures dismantled and permanently removed from the site together with any resulting materials and the land shall be seeded with grass, unless otherwise agreed in writing by the National Park Authority"*.
 - The reason given for the condition is: *"The mobile home lies in an area where residential development is not normally permitted except under particular circumstances, and in consideration of those reasons the personal permission and time restriction are to ensure that when the use ceases the site is returned to a condition that does not have any adverse effects on the surrounding countryside which lies within the New Forest National Park and to comply with policies H32 and HA1 of the Salisbury District Local Plan"*.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal site is located within open countryside within the New Forest National Park (NP), to the west of Woodfalls. It is accessed via an unmade track which forms a continuation of Lodge Grove, a residential road. The site contains an unoccupied mobile home which has been extended, including blockwork additions comprising a front porch and a large rear sunroom, together with a timber framed carport. It is surrounded by a small enclosed garden.

3. The evidence before me is that temporary permission to place a residential caravan on the site was first granted in 1966 to accommodate a horticultural worker in association with a small-holding use of the site. A series of renewal permissions followed, which were subject to temporary/personal conditions.
4. Having regard to the reason for the original condition, the main issue in this appeal is whether the appeal site is suitable for continued occupation of a mobile home and other domestic outbuildings, having regard to its location within open countryside within a National Park.

Reasons

5. The site has been unoccupied since August 2019. The appellant is seeking to vary condition 1 of planning permission Ref 07/92064 to allow the continued use of the land for the siting of a mobile home and other domestic outbuildings for residential occupation by the grand-daughter of Mrs Everett with her family, and suggests that occupancy can be conditioned to be restricted to these named people only.
6. The appeal site lies outside the settlement boundaries of the four "Defined Villages" as designated in the *New Forest National Park Local Plan 2016 – 2036 (2019)* (the Local Plan) and is not within any of the Local Plan allocated development sites. As such, Local Plan Policies SP4 and SP19 only permit residential development on the appeal site if there is an essential need for a countryside location, or it comprises a Rural Exception Site, or it meets the specific locational needs for commoners, Estate Workers or agricultural or forestry worker dwellings.
7. These policies apply, notwithstanding the length of time that the mobile home has been stationed on the site, and the fact that the site is well-screened in public views and there are other residential properties within the locality.
8. The mobile home was originally granted on the basis of an agricultural need to accommodate a horticultural worker. It is not clear from the evidence before me, on what basis the subsequent temporary and personal permissions have been granted, although I note that the last named occupier had lived on the site since 1985.
9. Both main parties are agreed that the original agricultural need is no longer applicable. The appellant has not put forward any evidence that the continued residential use of the site is required for agricultural, forestry or other rural based enterprise or satisfies the other special justifications set out in Local Plan Policies SP4 and SP19. Therefore, notwithstanding the previous temporary and personal permissions, I must deal with this appeal on the basis of the evidence before me in respect of the current proposal. Without any clear circumstances to justify a dwelling, I consider that the site is not a suitable location for residential development within the confines of these policies. On this basis I find no justification for allowing a further personal permission, even if it would be for a relative of the former occupants.
10. Furthermore, varying condition 1 to grant a further temporary and personal permission for the benefit of other family members would not accord with the exceptional circumstances justifying such types of conditions contained within the Planning Practice Guidance advice on planning conditions¹. This is

¹ Paragraph: 014 Reference ID: 21a-014-20140306 and Paragraph: 015 Reference ID: 21a-015-20140306

acknowledged by the appellant, who suggests that removal of the restrictive occupancy condition may be a more appropriate outcome, given the long-established existence of the mobile home. However, I find that there is no cogent evidence before me to justify such a proposal on the basis of an identified essential or demonstrable local need.

11. For the above reasons, I therefore conclude that, in the absence of evidence to demonstrate the need for the residential unit, it would not be appropriate to vary condition 1, which places a restriction on occupancy and requires the removal of the mobile home and associated structures once that restriction no longer applies. This accords with Local Plan Policies SP4 and SP19 which, amongst other aims, seek to ensure that development is suitably located having regard to the Council's adopted spatial pattern of development and protects open countryside within the NP from inappropriate development. These policies are consistent with the sustainable development and housing aims of the Framework and the great weight given in the Framework to the conservation and enhancement of the landscape and scenic beauty of National Parks.

Other Matters

12. The appellant suggests that allowing the appeal proposal would represent a more satisfactory outcome for the Council in planning terms than that which would arise should an application for a certificate of lawful development/use establish the lawfulness of the mobile home as a dwelling benefitting from permitted development rights. In this respect the appellant has drawn my attention to various long-standing additions to the unit and to appeal Ref APP/B9506/X/19/3221099 in respect of a certificate of lawfulness proposal relating to a different site.
13. However, it is not for me, under a section 78 appeal, to determine the lawfulness of the mobile home as a dwelling. To that end it is open to the appellant to apply for a determination under sections 191/192 of the Act and my determination of this appeal under section 78 does not affect the issuing of a determination under sections 191/192, regardless of the outcome of this appeal. In this respect I note that there is a current undetermined application for a certificate of lawful development in respect of the appeal site, for the use of a building as a dwelling house.
14. I acknowledge the appellant's close connections with the site and the locality, the affordability of the dwelling relative to permanent housing in the area, the support from Redlynch Parish Council, and the sustainability benefits of continuing to use an existing structure. I also accept that there would be small social and economic benefits from the occupation of a dwelling on the site and that an additional dwelling would make a small contribution to the Council's supply of housing. However, I am not persuaded that these matters outweigh the development plan policy conflict I have identified.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR

