



Appeal Decision

Site visit made on 11 July 2018

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28th August 2018

Appeal Ref: APP/R3325/W/18/3199542

Land opposite Tinkabee Cottage, Little Norton, Norton-sub-Hamdon, Stoke-sub-Hamdon, TA14 6TE.

- 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 D Hatton against the decision of South Somerset District Council.
 - The application Ref 17/04124/FUL, dated 12 October 2017, was refused by notice dated 29 January 2018.
 - The development proposed is for change of use of the land for the stationing of a log cabin and two shepherd huts.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of the land for the stationing of a log cabin and two shepherd huts at Land opposite Tinkabee Cottage, Little Norton, Norton-sub-Hamdon, Stoke-sub-Hamdon, TA14 6TE in accordance with the terms of the application, Ref 17/04124/FUL, dated 12 October 2017, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr D Hatton against South Somerset District Council. This application will be the subject of a separate Decision.

Procedural Matters

3. The site address used in the heading above has been amended from that given on the planning application form through addition of 'land opposite Tinkabee Cottage'. This is in order to fix the location of the site, and follows adoption of the same wording by both the Council and appellant.
4. The description of development above is that given by the appellant on the appeal form. This is the same as the description provided on the application form with the exception that unnecessary repeated words are omitted.
5. With regard to the development proposed, and as explained by the appellant, the 3 units of holiday accommodation proposed fall within the legal definition of 'caravan' – albeit the cabin might also be described as a 'mobile home'. As such the use of the site would be as a 'caravan site'. In my reasons below I have therefore referred the proposed units as caravans and further differentiated the cabin from the huts through use of the term 'static caravan'.

6. The Revised National Planning Policy Framework came into force during the course of the appeal. The parties have been given the opportunity to comment on the implications of the guidance on the appeal and I have also taken it into account in determining the appeal

Main Issue

7. The main issue in this appeal is the effect of the change of use on the character and appearance of the area, with particular regard to traffic, noise and visual impact.

Reasons

8. The site is a field located on the edge of the hamlet of Little Norton, and is currently in use as a smallholding. A stream runs along the southern edge of the site, and other boundaries are lined by a mixture of vegetation including some areas of overgrown and patchy hedging. A lane runs to the north of the site and access road to the east, part of which is followed by a public footpath. The immediate setting has a rural character and comprises agricultural land, paddocks and domestic gardens within which various structures are visible, an orchard and woodland.
9. No substantive evidence regarding the prevailing noise environment or levels of activity in the area has been provided, including evidence relating to current volumes of traffic on roads in the area. I observed however that the site lies a short distance from a road to the top of Ham Hill, a local visitor attraction, and therefore I anticipate that it sees a reasonable level of use. The narrow lane on which the site itself lies is a no-through road, but it connects to accesses which serve properties to the east. During the period of my morning visit I noted several vehicles using the lane. Whilst accepting that this is only a snap shot in time, there is no substantive evidence before me which leads me to consider that the lane does not see regular use by vehicles, albeit at very low volume.
10. Though vehicles already use the lane to access the site, the proposed change of use would lead to a regular increase in vehicles using the lane. However the traffic likely to be generated by 3 caravans would be minimal and would vary throughout the year with site bookings. As such the overall volume of traffic would remain low, as too would the noise it generated. This would not in my view have an adverse effect on the character of the area.
11. A certain level of noise would be generated by vehicles and visitors within the site itself. Noise generated from the type of accommodation proposed might occasionally include that produced by children playing outside, and by other outdoor social activities. I noted during my visit that the site was being relatively intensively used, including the manoeuvring of vehicles within the site boundaries and management of livestock, this giving rise to noise clearly audible beyond the site. I also noted the reasonably close proximity of the site to dwellings both to east and west, within the curtilages of which similar activities to those likely to take place on the site could also occur. I consider therefore that whilst the type of noise might differ between proposed and existing uses of the site, the change would not take place within an environment which is currently lacking in noise, or within one where the type of noise generated would seem entirely alien. The noise would also be limited by the small number of caravans, their distribution across the site and the somewhat weather-dependent nature of the potential outdoor activities that

- might give rise to noise. As such I consider that noise generated within the site by the change of use would again not have an adverse effect on the character of the area.
12. Views into the site are currently limited due to growth of mixed vegetation along the boundaries, and by domestic fence panels. I consider that the latter have a generally adverse visual impact on the rural character of the setting. Some seasonal variation in the quality of screening can be anticipated. As it seems likely that lowering the proposed static caravan into the site by crane would require trimming of the adjacent bushes, screening of the site would be reduced further. As such, and given that the layout would see the 3 caravans positioned directly adjacent to the north boundary, I consider it likely that they would be visible from the lane for large parts of the year. The duration of this potentially adverse visual impact could be reduced and otherwise mitigated by the improvement and future maintenance of the boundaries. In view of their current condition this could itself bring some local visual enhancement. Works to the boundaries could be secured by an appropriate landscaping condition.
 13. Both parties have described or made reference to the various 'paraphernalia' associated with the current smallholding use that the site contains. I observed that structures, fencing, and various other materials are indeed distributed across the site and its boundaries, and include the panels noted above. The removal of such paraphernalia from the site is advanced as a benefit of the scheme by the appellant in the appeal statement, and I agree. Whilst removal of such paraphernalia could take place in the absence of a change of use, there is no particular reason to consider that this would occur. In my view this would however be necessary in order for the site to be suited to the use proposed, and for the use itself to succeed. The benefit could again be secured, along with specific details of the layout and landscaping of the site, by a suitably worded condition.
 14. The Council's objection to the change of use on the basis of its 'materials' is not fully developed or specifically explained, though the Council's appeal statement does include a reference to paving. Where new hard surfacing is required this could again be subject to agreement through use of a landscaping condition, and use of a suitable and sensitive finish could therefore be secured. In terms of the caravans themselves, I noted that timber cladding is a feature of a number of outbuildings visible in adjacent fields. In this context use of similar materials would not appear to be at odds with the setting.
 15. Proximity of the site to Little Norton Conservation Area (the conservation area) has been highlighted. I noted that the boundary of the conservation area is tightly drawn around a former mill, and otherwise excludes a large proportion of its immediate developed setting. Though the dwelling along the lane to the west of the site is included, most of its garden and the adjacent field which abut the site are not. The Council indicate that the closest part of the conservation area boundary to the site is around 60 metres away, and this comprises a linear extension of the boundary along the mill stream. The mill itself is some distance away, and no obvious relationship between the site and mill appear to exist aside from the fact that the same watercourse appears to run along the southern boundary. In view both of lack of current relationship, and given my findings above, the scale, layout and materials involved in the proposed use would have no direct or indirect effect on the setting of the conservation area.

16. I find that the development would therefore be in accordance with Policy EQ2 of the South Somerset Local Plan 2006-2018 (SSLP) which seeks other things high quality development that preserves or enhances the character and appearance of the district.

Other Matters

17. There is some dispute between the parties regarding whether or not the proposed change of use would represent farm diversification. In this regard I find that the application does not appear to meet the requirements of Policy EP5 of the SSLP, which addresses farm diversification. Nonetheless, and withstanding third party comments regarding need, the view expressed in the officer report that that the economic case presented with the application is "sufficiently robust", appears to be unchallenged. The Council's appeal statement again reiterates the economic benefits of the scheme, and despite appearing to also offer the somewhat contradictory view that harm to the character of the area would affect a cornerstone of the economy, the Council's refusal does not note non-compliance with Policy EP8 of the SSLP, which seeks to sustain the vitality and viability of tourism in the district, as a reason for refusal.
18. Use of the site by disabled visitors forms an important aspect of the appellant's business case referenced above, and some discussion regarding suitability has been raised by third parties. With reference to the Public Sector Equality Duty contained in the Equality Act 2010 (the EA 2010), I have had due regard under Section 149 of the EA 2010 to the requirement to take steps to meet the needs of persons who share a protected characteristic. The EA 2010 defines disability as one such characteristic. Whilst the details provided with the application do not fully explore what is meant by disabled in this context, the design details do not illustrate how the site or static caravan would be made fully accessible. For example, details of ramp provision are lacking, the double doors serving the static caravan do not provide a single door opening width adequate for wheelchair access, and the bathroom facilities do not appear to be fully accessible. In my opinion allowing the appeal without ensuring that these matters are properly addressed could prejudice the needs of persons sharing a protected characteristic. I am satisfied however that these points can be addressed by use of a condition requiring details of measures to be taken to ensure accessibility.
19. Third parties raise drainage issues and the potential for flooding of the site, however again no specific evidence has been provided. Given the topography of the site and its classification with Flood Zone 1, I find no particular reason to disagree with the Council's assessment of flood risk set out in the officer report. It would however be appropriate to apply conditions to the scheme requiring agreement of measures to be taken to deal with surface water drainage and sewerage requirements of the development to ensure that adverse effects arise.
20. Concerns have been raised regarding possible permanent occupation of the site, and reference has been made to the existing presence of caravans. Whilst I have no information regarding the lawfulness of the caravans currently on site, and it is not the purpose of this appeal to address the matter, I am satisfied that use of the proposed caravans solely as holiday accommodation could be secured by condition.

Conditions

21. I have applied conditions setting the time limit for implementation and listing the approved plans for sake of certainty. I have also applied conditions requiring details of landscaping works, highway access, drainage, sewerage and parking provision notwithstanding the limited information provided during the Council's consideration of the planning application. This is in order to ensure that the site can be safely accessed and used by visitors, to ensure that no adverse impacts to local drainage arise, that no adverse impact on the locality arises from external light sources, and that the site is appropriately screened and laid out, delivering the enhancement of the site proposed. I have combined conditions and modified wordings provided by the Council where applicable, applying standardised wording where available.
22. I have applied further conditions limiting the number, type and siting of caravans to be stationed on the site to those specifically proposed, and strictly limiting use of the caravans to that of holiday accommodation. This is in order to ensure limitation of the scope of the permission, avoiding potential for intensification over and above that which I have considered acceptable within the context of this appeal. It is also necessary in order to avoid alternative residential uses, the suitability of which have not been scrutinised. I have used the Council's suggested condition with minor amendments.
23. Rather than prohibit the use of generators as suggested by the Council, I have applied a condition requiring details of the measures to be taken to supply power to the site in order to ensure that appropriate facilities are provided, and whose provision would have no adverse impact on the setting.
24. I have not applied the Council's suggested condition terminating the approved use when not required for holiday lettings as it is unclear what the use of site would revert to. I have however included a condition requiring removal of the caravans once no longer required for an approved use, to avoid them cluttering the site.
25. In view of my finding with regard to the Public Sector Equality Duty, and the intended use of the site by disabled persons, I have applied an additional condition requiring details of measures to be taken to facilitate access to and movement around the site, including use of the static caravan accommodation. This will ensure that the needs of disabled visitors are met.

Conclusion

26. For the reasons set out above, and with regard to all other matters raised, the appeal is allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan 1:2500; block/site plan 130x130 showing turning area; block/site plan 90x90 showing visibility splays; Plan 001: shepherd hut; log cabin plans v2r0: impression view, foundations plan, ground floor plan, section, elevations, impression ground floor.
- 3) No more than 3 caravans, one of which is static, shall be stationed on the site at any time. These must be positioned in the locations identified on the approved plans, and be of the same design as those shown on the approved plans.
- 4) The occupation of the units of the caravans hereby approved shall be restricted to bona fide holidaymakers, none of whom shall occupy the units for a period in excess of 3 months in any calendar year without the written approval of the Local Planning Authority. None of the units shall at any time be occupied independently as any person's sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of occupiers of the units, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
- 5) Once no longer required for the use hereby approved, the caravans shall be permanently removed from the site within one year of the approved use ending.
- 6) Notwithstanding any information in the submissions, no development shall commence until details of the hard and soft landscaping of the site have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) vehicular access, parking and turning layouts, platforms, pedestrian pathways, and seating and circulation areas, including details of their proposed finished levels, construction and surfacing;
 - ii) earthworks and water features including details of any changes to levels;
 - iii) a survey of existing hedges and trees, indicating those to be retained and measures to be taken for their protection during the course of the development;
 - iv) means of enclosure, including gates and boundary treatments, and details of measures to improve boundary planting;
 - v) other planting;
 - vi) minor artefacts and structures including bin storage facilities;
 - vii) external lighting.

Landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use, and shall thereafter be retained.

- 7) Any 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.

- 8) Notwithstanding any details included within the submissions, no development shall take place until a scheme indicating the measures to be taken to enable disabled persons to gain access to and around the site, including measures to facilitate access to and use of the static caravan, has been submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented before the static caravan is brought into use, and shall be retained thereafter.
- 9) No development shall take place until details of the means by which the site will be supplied with power and works required to achieve this have been submitted to and approved in writing by the local planning authority. The approved power and water supply arrangements will be maintained thereafter, and no other arrangements made.
- 10) Notwithstanding any details included within the submissions, no development shall take place until arrangements for the disposal of foul and surface water have been submitted to and approved in writing by the local planning authority. None of the caravans hereby permitted shall be occupied until the approved arrangements have been implemented, and they will be maintained thereafter.