
Appeal Decisions

Inquiry held 18-19 November 2014

Site visit made on 19 November 2014

by **P Willows BA DipUED MRTPI**

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

Decision date: 30 December 2014

Appeal Ref: APP/L3815/C/14/2215278

Greenways Nursery, Kirdford Road, Wisborough Green, West Sussex RH14 0DD

- 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 Mrs Linda Cooper against an enforcement notice issued by Chichester District Council.
 - The Council's reference is WR/21.
 - The notice was issued on 30 January 2014.
 - The breach of planning control as alleged in the notice is the change of use of the land to the stationing of mobile homes for the purposes of human habitation.
 - The requirements of the notice are:
 - 1) Cease the use of the land for the stationing of mobile homes for the purposes of human habitation
 - 2) Remove the mobile homes from the land, and
 - 3) Demolish the timber decking and porch in the approximate position shown coloured black on the plan attached to the notice and remove all resultant debris from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal Ref: APP/L3815/A/13/2209917

Greenways Nursery, Kirdford Road, Wisborough Green, West Sussex RH14 0DD

- 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 Mrs Linda Cooper against the decision of Chichester District Council.
 - The application Ref WR/13/00744/FUL, dated 7 March 2013, was refused by notice dated 18 July 2013.
 - The development proposed is the use of land for the stationing of caravans for residential purposes for 10 no. plots together with the formation of additional hard standing.
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Decisions

APP/L3815/C/14/2215278

1. The enforcement notice is corrected: by the deletion of the words 'edged red' and the substitution of the words 'edged black' in section 2; and by the

substitution of the plan annexed to this decision for the plan attached to the enforcement notice. Subject to this correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the change of use of the land to the stationing of mobile homes for the purposes of human habitation on the land shown edged black on the plan annexed to this decision, subject to the conditions set out in the attached schedule.

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2. The appeal is allowed and planning permission is granted for the use of land for the stationing of caravans for residential purposes for 10 no. plots together with the formation of additional hard standing at Greenways Nursery, Kirdford Road, Wisborough Green, West Sussex RH14 0DD in accordance with the terms of the application, Ref WR/13/00744, dated 7 March 2013, subject to the conditions set out in the attached schedule.

Preliminary Matter

3. I shall refer throughout to appeal ref APP/L3815/C/14/2215278 as 'the enforcement appeal' and to appeal ref APP/L3815/A/13/2209917 as 'the planning appeal'.

The Enforcement Notice

4. The enforcement notice is accompanied by a map with an area of land outlined in red. This includes an area next to the bungalow 'Greenways', which has a mobile home stationed upon it. The Council confirmed at the Inquiry that it had not intended the notice to be directed at this mobile home and was happy for the notice to be corrected to exclude the relevant area of the land, a change the appellant supported. The Council provided an amended plan during the Inquiry. I will therefore correct the notice by substituting this plan for the one attached to the notice. In view of the agreement on this matter, no injustice will be caused by making this change.

The Planning Appeal

Main issues

5. The Council's reasons for refusal included concerns regarding visibility at the access to the site and potential effects on wildlife species. However, following the submission of further information, these issues have now been addressed to the Council's satisfaction. In the light of this, the main issues are now:
 - the effect of the development on the character and appearance of the area;
 - whether the scheme is sustainable development; and
 - whether any harm arising from the development is outweighed by any benefits of the scheme or other considerations.

Planning Policy

6. The development plan consists of the Chichester District Local Plan First Review. The appeal site falls outside any of the Settlement Policy Areas designated by the Plan, and is therefore part of the designated Rural Area.

7. It is common ground that the Council cannot currently demonstrate a 5 year supply of deliverable housing sites. Consequently, the Council accepts that, in accordance with Paragraph 49 of the National Planning Policy Framework (the Framework), policies RE1 (Development in the Rural Area generally) and H11 (Residential Caravans) should not be considered up to date. Instead, the Council relies upon policies RE5 and BE11.
8. Policy BE11 sets out a range of general matters relevant to new development, including the effect of development on the local environment and its setting in the landscape, and is consistent with the Framework. Accordingly, I give it due weight.
9. Policy RE5 gives 'special protection' to the north-eastern area of the District, outside the Sussex Downs Area of Outstanding Natural Beauty (AONB). However, I could not establish clearly from the Council's evidence precisely what the particular character of the area is such that it is worthy of special protection. Nevertheless, the general aim within the policy of ensuring that development is not, 'detrimental to the area's landscape character or historic features' is in broad alignment with aims of the Framework, and I attach weight to it accordingly.
10. The Council also makes reference to Policy TR6, which is concerned with highway safety. However, this appears to me to be of little relevance to the concerns now pursued by the Council.
11. A new local plan is in draft form. However, examination of the plan is not yet complete and I attach very little weight to its policies.

Character and appearance

12. The site is a disused horticultural nursery. It is located on a rural road, a short distance from the main core of the village of Wisborough Green. There is a field to the southeast, while to the north is open land used as a caravan site on a seasonal basis, following the grant of planning permission in 1997. There were a handful of caravans on the site when I viewed it. To the northwest of the appeal site is another site containing glasshouses, which appear to be in active use, beyond which is a row of about 10 dwellings. On the opposite side of the road are 2 dwellings, one of which appears to be associated with a range of glasshouses adjacent to it.
13. Thus, while the area is largely rural in character, it contains a significant amount of built development. Although much of that development, such the glasshouses on the appeal site, is associated with agriculture, a significant proportion is not. Accordingly, development here would not result in 'new isolated homes in the countryside' of the kind referred to in Paragraph 55 of the Framework.
14. The proposed mobile homes would be positioned in the rear part of the site, some distance back from the road. A number of glasshouses would be removed to allow the development to take place, but the glasshouse nearest to the road and the bungalow 'Greenways' would not be affected by the scheme. These structures would provide a significant degree of screening of the mobile homes. Additional screening would be provided by existing trees and the slightly straggly boundary hedging at the site. Given the low height of a typical

mobile home, and the prospect of further planting around the site, the visual impact of the development on the area as a whole would be quite limited.

15. Nevertheless, the change of use of the property would have an effect on the character of the area. There would be glimpses of the mobile homes from the road and from the public footpath to the east of the site, albeit filtered by vegetation. In addition to the mobile homes themselves, the site would also need to accommodate the inevitable cars and domestic paraphernalia that would accompany them. Additionally, the increase in domestic traffic and pedestrians to and from the site would be noticeable, and there would be changes to the access as well.
16. Thus, the residential use of the site and its more urban character would be apparent. This would erode the largely rural character of the area and would be harmful in my view. Accordingly, there is conflict with Policies RE5 and BE11. However, since even at present the area contains significant urban elements, and given the contained nature of the site and restricted views into it, the degree of harm would be limited.
17. During the Inquiry there were some references to the visual effect of mobile homes (as opposed to bricks and mortar housing) on the appeal site, but the Council's planning witness (Fjola Stevens) confirmed that the Council did not oppose the scheme on that basis.
18. I conclude on this issue that there would be some, limited harm to the character and appearance of the area, and consequent conflict with policies RE5 and BE11.

Sustainable development

19. The Framework identifies 3 dimensions to sustainable development – economic, social and environmental.
20. I have no doubt that the scheme would bring some economic benefits, such as construction jobs and providing homes for potential workers. However, I have no evidence to suggest that there is any specific need for the development in economic terms, or that the benefits would be anything over and above those inevitably associated with a scheme of this type.
21. There would be social benefits in providing homes for people in an area where there is clearly a shortage of sites for new housing. I comment on this in more detail below under *Benefits and other considerations*.
22. As to the environmental dimension, I have found some, limited harm to the character and appearance of the area. Moreover, the site clearly falls far short of being ideal in terms of access to local facilities and public transport. Although Wisborough Green has a shop, school and other services, residents of the area are likely to find that fairly frequent trips to higher order centres are necessary. Furthermore, the appeal site is some distance from the centre of the village, on a rural road with no footway or street lighting. A 'hail and ride' bus service runs along the road past the appeal site. However, the service is very limited and infrequent. Overall, it appears to me that residents of the site would be highly reliant on their cars.

23. That said, the Framework recognises that new housing may be needed in rural areas¹. Moreover, the Council acknowledges that some housing development at Wisborough Green is appropriate, and advises that the emerging Neighbourhood Plan for Wisborough Green could bring forward land for 60 dwellings. Indeed, there is already a resolution to grant planning permission for 25 of these. Thus, it seems to me that there is acceptance that, given the inevitable compromises that apply in rural areas, development at Wisborough Green should not be ruled out solely for reasons concerning transport and access to services.
24. Weighing all of these factors in the balance, I conclude that, given the limitations that apply within this rural area, and notwithstanding the location of the appeal site outside the core of Wisborough Green, the appeal proposal is a sustainable form of development. In reaching that view I have noted the appeal decision cited by the Council², but that relates to a site on a different road and appears to me to be of little relevance to the specifics of this case.

Benefits and other considerations

25. The appeal scheme would see the provision of 10 new homes. Even if the Council had an adequate supply of housing land, I would attach weight to this as a benefit of the scheme. However, in the absence of a 5 year supply of housing land, it is a more important consideration still. The Framework seeks to 'boost significantly the supply of housing'³
26. The Council argues that there is no identified need for mobile home pitches. Reference is also made to an appeal decision in which the inspector concluded that mobile homes would not deliver high quality housing⁴. However, the Council has not identified any local or national policies which suggest that mobile homes or caravans are not a suitable form of housing, and the appeal decision referred to was issued some years ago, long before the Framework was published. Moreover, Mr Green gave evidence that modern mobile homes provide high standards of accommodation and thermal efficiency. From the evidence before me I am not convinced by this aspect of the Council's case, and conclude that the accommodation that would be provided is an important benefit of the scheme.

Conclusion on the planning appeal

27. Both parties consider that, given the current housing land supply position, the appeal should, in accordance with Paragraph 14 of the Framework, be determined on the basis that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole. I agree with that view.
28. I have concluded that there would be harm to the character and appearance of the area, but that this would be limited. Conflict with the development plan arises from this. Set against this is the significant benefit of the new dwellings, in the context of a shortage of housing land. I have also concluded that, in overall terms, the development would be sustainable. Weighing up these

¹ Paragraph 54

² APP/L3815/A/08/2070603

³ Paragraph 47

⁴ APP/L3815/A/09/2111969

matters I conclude that the adverse impacts of the development do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework. Accordingly, I will allow the appeal.

29. I have required the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A schedule of surfacing materials is needed to ensure that the appearance of the development is satisfactory and to ensure that surface water is properly addressed. Visibility splays and details of areas to be used by vehicles within the site are to be provided to ensure that the development is safe.
30. I have imposed conditions relating to landscaping and the retention of existing vegetation to ensure that the appearance of the development is satisfactory. Details of bin storage and cycle storage facilities are required to ensure that such provision is of an appropriate standard. A condition is necessary to ensure that appropriate protection is given to any reptiles present at the site at the time of the development.
31. I am not persuaded that a condition requiring the demolition of existing structures is necessary, given that the key structures on the site would need to be removed in any event for the development to take place.

The Enforcement Appeal on ground (a)

32. The issues and factors to be considered in relation to this appeal are much the same as those that apply to the planning appeal, and I will not repeat them. The key difference is one of scale. As things stand, only 2 mobile homes are affected, and both parties consider that a condition restricting any planning permission to this number would be appropriate. Thus, the benefits of the scheme in terms of additional housing would be less compared to the planning appeal scheme. On the other hand, the impact on the character and appearance of the area is also less. In my view, the 2 units currently there have only a very limited effect on the character or appearance of the site and the area.
33. An additional consideration is the effect of upholding the notice on the people who live in the units, and I heard evidence from occupiers of both of the units regarding this. However, I attach little weight to this consideration. From the written evidence before me and what I heard at the Inquiry it appears to me that the occupiers of the units would be able to find alternative accommodation, given sufficient time. Thus, while their needs would be an important factor in relation to the ground (g) appeal, I am not persuaded that it is a key factor in relation to the principle of the development.
34. Nevertheless, given the limited harm arising from the change of use, and applying Framework Paragraph 14 to this appeal as I applied it to the planning appeal, I conclude that the appeal should succeed on ground (a). Accordingly I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected site area. The appeal on grounds (f) and (g) does not therefore need to be considered.
35. I have attached a condition restricting the number of caravans permitted on the site and requiring a site layout to be submitted for approval in order to

reflect the current situation and in the interests of the proper planning of the site and the area. While the planning appeal scheme provides for more units than the two I have allowed here, that is a significantly different, more detailed scheme. As with the planning appeal scheme, I have required the retention of existing vegetation on the site boundaries to ensure the satisfactory appearance of the development.

36. I have not restricted the time period of the planning permission or restricted it to existing occupants, as I was invited to during the Inquiry, given my view that little harm arises from it. Nor, having considered the buildings on the site, do I consider that a condition to control their future use is necessary.

Peter Willows

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Gwion Lewis
He called
Fjola Stevens MRTPI
Reginald Hawks MRTPI

Barrister, instructed by Nicola Golding,
Chichester District Council

FOR THE APPELLANT:

Matthew Green
He called
Elizabeth Bell
Chris Mintern
Tina Boyling
Matthew Green

Green Planning Studios Ltd

INTERESTED PERSONS:

Keith Charman
Chairman, Wisborough Green Parish Council

DOCUMENTS SUBMITTED AT THE INQUIRY

1	Statement by Wisborough Green Parish Council
2	Aerial photographs
3	Proposals Map
4	Statement of Common Ground on highway matters
5	Amended proof of Matthew Green
6	Reptile Mitigation Strategy – Biocensus December 2013
7	Policy BE1 – Chichester Local Plan First Review
8	Suggested conditions
9	Revised enforcement notice plan
10	Revised Condition 10 (Reptile mitigation Strategy)

CONDITIONS

APP/L3815/C/14/2215278

- 1) No more than 2 caravans shall be stationed on the land at any time.
- 2) The use hereby permitted shall cease within 1 month of the date of failure to meet any one of the requirements set out in (i) to (iii) below:-
 - i) within 3 months of the date of this decision a site layout scheme showing the location of the caravans shall have been submitted for the written approval of the local planning authority.
 - ii) within 11 months of the date of this decision, if the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- 3) Once the site layout scheme has been approved, the caravans shall remain sited in accordance with it at all times thereafter.
- 4) The existing hedge and tree screen along the site's north-west and south-east boundaries shall be retained and any part of the hedges that are removed without consent or die or become severely damaged or diseased within 5 years of the date of this permission shall be replaced in the next planting season with a hedge of a similar size and species.

APP/L3815/A/13/2209917

- 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 Drawing Nos 12_522_001 and 12_522_003.
- 3) No development shall take place until a schedule of surfacing materials and finishes to be used within the site, including details of all hard standings, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Before any part of the development hereby permitted is first occupied, the access, turning area and vehicle parking shall be completed in accordance with the approved plans; and they shall thereafter be maintained for these purposes throughout the lifetime of the development.
- 5) No part of the development shall be occupied until visibility splays of 2.4m x 120m on each side of the access have been provided. The splays shall be kept free of any obstacles over 0.6m in height in perpetuity, excluding the telegraph poles on either side of the access.
- 6) No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities. In addition, all existing trees and hedgerows on the land shall be indicated including

details of any to be retained, together with measures for their protection in the course of development. The scheme shall include seeding with a native British wildflower flora mix appropriate to the soil and climate of the site. The scheme shall make particular provision for the conservation and enhancement of biodiversity on the site.

- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the site and 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) The existing hedge and tree screen along the site's north-west and south-east boundaries shall be retained and any part of the hedges that are removed without consent or die or become severely damaged or diseased during a period of five years from the date of the completion of the development shall be replaced in the next planting season with a hedge of a similar size and species unless the local planning authority gives written consent to any variation.
- 9) Prior to the commencement of development a scheme showing details of provision for refuse bin storage and cycle storage within the site shall be submitted to and approved in writing by the local planning authority. The refuse bin and cycle storage shall be provided in accordance with the approved scheme before any part of the development is occupied and shall thereafter be kept permanently available for their stated purpose.
- 10) No development shall commence until mitigation works have been carried out in accordance with Section 3.1 of the 'Reptile Mitigation Strategy' (Version 1.1) produced by Biocensus and dated December 2013. In the event that reptiles are found during the destructive search specialist reptile fencing to a height of between 0.5m and 1m shall be erected around the edge of the site prior to the commencement of development. Thereafter the fencing shall be retained in situ until the development is complete. All mitigation works shall be carried out under the supervision of a qualified ecologist.



Plan

This is the plan referred to in my decision dated: 30.12.2014

by **P Willows BA DipUED MRTPI**

Land at: Greenways Nursery, Kirdford Road, Wisborough Green, West Sussex RH14 0DD

Reference: APP/L3815/C/14/2215278

Not to scale

