



Appeal Decision

Inquiry held on 2 – 3 March 2021

Site visit made on 25 March 2021

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2021

Appeal Ref: APP/P1560/W/20/3263229

Oakleigh Residential Park, Clacton Road CO16 9DH

- 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 Oakleigh Residential Park Ltd against the decision of Tendring District Council.
 - The application Ref 20/00119/FUL, dated 28 January 2020, was refused by notice dated 27 July 2020.
 - The development proposed is a change of use to create a retirement park by allowing the residential use of caravans approved under planning permissions APP/P1560/W/17/3183981 and 19/00707/FUL.
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Procedural matters

1. The intention of the appeal scheme is not to increase the number of caravans beyond that already permitted on the site. However there is a slight difference between the parties as to the precise number of caravans currently consented. The description of the proposal quoted above does not refer to a specific number of caravans, and this slight difference would only become relevant in relation to conditions and the contribution towards affordable housing if permission were granted.
2. During the course of the appeal, the appellant submitted a revised layout showing additional parking provision. I have discussed this below. I do not consider that this amendment would prejudice the position of any party, and I have considered the appeal on that basis.

Decision

3. The appeal is dismissed.

Application for costs

4. At the Inquiry an application for costs was made by Oakleigh Residential Park Ltd against Tendring District Council. This application is the subject of a separate Decision.

Main issues

5. One of the Council's reasons for refusal, alleging insufficient information related to sewage capacity, was withdrawn on 20 January 2021¹ in the light of further

¹ CD 9.36

information provided by the appellant². I am aware that a local resident has also raised this issue but I do not consider it to be a matter on which the appeal should turn, in the light of this further information.

6. On that basis, there are two issues in this appeal:

- Whether the loss of the existing caravan park would harm tourism provision in the area, in the light of development plan policy.
- Whether the proposed permanent residential use of the caravans would harm the settlement pattern of the area in the light of development plan policy.

Reasons

The site, planning history, and current proposal

7. The appeal site, which is accessed from the B1441, is adjacent to Weeley railway station and within walking distance of bus stops. The site and the station are located midway between the separate settlements of Weeley and Weeley Heath.
8. The site is broadly 'L' shaped and comprises two parcels of land. The western part of the site is almost entirely laid out with holiday lodges and open spaces, whilst the southern part is currently in the process of being laid out.
9. There is a considerable history related to the component parts of the site³, but the key elements are described below. The consequence of these decisions is that the site has planning permission for a number of holiday lodge caravans (see paragraph 1 above). The two key elements of the planning history are:
 - 4 January 2018. Planning permission was granted on appeal⁴ for 67 holiday lodge caravans. A condition was imposed limiting occupation to holiday use only.
 - 24 January 2020. Planning permission was granted by the Council⁵ for 76 caravans. A condition was imposed limiting occupation to holiday use only and requiring that the caravans should not be occupied as a sole or main place of residence.
10. Immediately to the east of the western part of the site are four residential caravans which were the subject of a Lawful Development Certificate in 1999. These are not part of the current appeal scheme (although they are shown on the submitted site plan). To the south of these caravans and to the west of the eastern parcel of the appeal site, is land comprising 8 traveller pitches and associated development. This land is accessed from the south from Gutteridge Hall Lane and is not part of the appeal site.
11. The proposal is not to increase the number of caravans already permitted on the two parts of the site. The purpose of the proposal is to allow permanent residential occupation of the caravans by persons aged 50 and over. This age

² Especially CD 13.6

³ Set out at Mr Carpenter's proof para 3.3 – 3.11

⁴ APP/P1560/W/17/3183981

⁵ 19/00707/FUL

restriction is one of the clauses in a completed Unilateral Planning Obligation (UPO) dated 7 July 2020⁶.

Planning policy context

12. The development plan comprises the remaining saved policies of the Tendring District Local Plan (2007) (the LP) along with the recently adopted Tendring District Local Plan 2013-2033 and Beyond - Section 1 (January 2021) (the Section 1 Plan).
13. The draft Tendring District Local Plan 2013-2033 and Beyond (2017) Section 2 (the draft Section 2 Plan) was the subject of Examination Hearings at the time of the Inquiry into the current appeal. Although it is not part of the development plan, it has progressed to a relatively advanced stage and can be accorded significant weight overall.
14. It is worth noting at this point that when the Council adopted the Section 1 Plan in January this year, the housing requirement was fixed. The parties drew attention to an appeal decision in Clacton⁷ which noted that the authority was able to demonstrate the availability of a 6.14 year housing land supply, based on the (then anticipated) adoption of the Section 1 Plan. The parties in the current appeal variously suggested a housing land supply figure between 5.5 years and 6.1 years. The precise figure is not of any great relevance in this appeal, and it is not a matter to which I shall return. What matters is that both parties accept that there is a five year supply and no party has suggested that the so-called 'tilted balance' under the National Planning Policy Framework (the Framework) is engaged for that reason.

The loss of the existing tourist caravan park

15. The proposal would result in the 'loss' of around 143 caravans or potential caravans (in relation to that part of the site yet to be laid out) from tourist use. At present, assuming that all the existing caravans (aside from the 4 lawful permanent caravans) are occupied in accordance with the restrictive conditions as summarised above, all the caravans are available only as tourist accommodation. This tourist accommodation would be lost if the appeal were allowed.
16. The adopted policy is LP ER18. This policy, located within the economic development and regeneration section of the plan rather than the housing section, deals with existing caravan and chalet parks. It provides that these will be safeguarded from redevelopment for alternative uses. Material considerations are stated to include four matters, although it is clear that this is not a closed list. I will address each of the matters in turn.
17. The first matter to be considered under the adopted policy is whether the proposal occupies a prime site in a main tourist area in an attractive location. This element is supported by the justification for the policy which lists the main tourist areas, not including Weeley, where it is most important to sustain tourism. But neither the policy or the justification suggests that the safeguarding approach only applies to sites in those defined areas.

⁶ CD 12.1

⁷ APP/P1560/W/20/3256190

18. The second matter is whether the site provides or could provide a range of recreational facilities. In this case the site provides or will provide a number of open spaces and a clubhouse. The appellant explained that the site is mainly targeted at those who seek a quiet location and I agree that all necessary facilities are or will be in place.
19. The third matter relates to whether the site has been upgraded or offers the potential for further upgrading. This is not relevant in this case as the site has been recently laid out or is in the process of being laid out.
20. Finally there is the question of whether the site provides or has the potential to provide a range of holiday accommodation. In this case, from everything which I have read, heard and seen, the existing units on the park provide relatively substantial holiday homes, potentially for extended stays. In that respect the site differs from other types of caravan sites, and makes a contribution to the range of facilities in the area.
21. Taking all these matters together, although I agree that the site is not in one of the main tourist areas, it adds to the range and type of facilities in the wider area, and provides holiday accommodation of a particular type. There is no suggestion that the units are not in demand or that there is a viability issue with the site as it stands. The extensive groundwork which is in hand on the site also suggests that the existing operation is in demand. The proposal therefore conflicts with LP policy ER18.
22. Turning to the draft Section 2 Plan, Policy PP11 deals with Holiday Parks, again within a section other than the housing section. This policy particularly seeks to protect "safeguarded sites" against redevelopment for alternative uses. The appeal site was not shown as a safeguarded site when the plan was submitted for examination in 2017, but a 'correction' in January 2021 designates the appeal site and others around Weeley as being as safeguarded. There was some discussion at the Inquiry as to the motive for this, but this is not a matter for me and the amended policy will doubtless be considered as part of the examination into the emerging plan.
23. However, even leaving aside the question of the safeguarded sites, the policy provides that proposals will only be considered favourably if it can be demonstrated that that current use is no longer economically viable or that economic benefits would outweigh the loss of the existing operation. No such case was made in this instance.
24. The Council's emerging policy approach is supported by the Holiday and Residential Park Impact Assessment 2019/2020 (August 2020) which illustrates the economic importance of the holiday park sector to the area and the tourism economy. I note the appellant's statement that the document does not provide evidence of unmet demand, but the question of demand for particular types of accommodation does not feature in either the adopted or emerging policies.
25. The proposal is therefore clearly in conflict with the emerging policy, either in relation to the draft identification as a safeguarded site and in the event that this were omitted. Although the policy adopts a similar approach to the older adopted policy, given the fact that I understand there to be objections to the policy, I can only afford the policy itself (as opposed to the plan as a whole) limited weight.

26. Overall, the Council's approach is in line with national policy, which is that policies should enable, amongst other matters, sustainable rural tourism and leisure developments. For the reasons set out above the appeal scheme is in conflict with policy and would harm tourism provision in the area.

The provision of permanent residential accommodation

27. The appeal site is not allocated for development in either the adopted or emerging plan and is outside the settlement boundaries of Weeley and Weeley Heath in both plans.
28. The adopted LP sets out the overall spatial strategy. LP policy SP3 seeks to accommodate development within or adjoining settlements according to their scale. This approach is maintained in the emerging draft Section 2 Plan, which provides (policy SPL2) for development within existing settlements. Residential development in the countryside outside existing boundaries is not supported.
29. I appreciate that planning permission has been granted on two occasions for the use of the appeal site for holiday homes. However in each case these decisions were clearly founded on policies which allow an exception to general policies of restraint.
30. The grant of these permissions does not justify the breach of policy related to permanent residential development.
31. I appreciate that the site is relatively close to the adopted and emerging settlement boundaries of both Weeley and Weeley Heath. However it does not adjoin either, and the mere fact of relative proximity to boundaries is not a good argument in itself. It could be repeated too often to the detriment of the overall spatial strategy. Nor does the fact that the site possesses some sustainable attributes – most particularly the proximity of the railway station – lend any great weight to arguments in favour of the proposal. Again, with a station located outside settlement boundaries, it is an argument which could be repeated too often to the detriment of the plan led system.
32. The appellant sought to cast doubt as to whether certain sites on which the Council relies for its housing land supply will actually come forward. However, as the parties agree that a five year supply exists and very little evidence was submitted to support this argument, this is not a matter to which I can ascribe any significant weight.
33. The appellant's main argument is that, given that the park homes exist and are occupied for residential purposes of a particular sort, there is little change to permanent residential use. I accept that this argument has a certain tempting logic, but the fact remains that the existing and proposed uses are separate in mode of use and policy terms.
34. I have been referred to an appeal decision⁸ (24 December 2020) in respect of a proposal for 80 dwellings within Weeley Heath, where the appeal was dismissed due to conflict with strategic policies. Whilst there is some comparison with the current appeal, the very particular type of accommodation in the current case distinguishes the appeals. In addition, although recent, the development plan position has changed substantially since this earlier decision. It does not significantly assist in the current case.

⁸ CD8

35. Overall, the provision of additional residential development should be met in line with the adopted and emerging strategy. The proposed permanent residential use of the caravans would harm the settlement pattern of the area in the light of development plan policy.

Other matter - parking

36. One of the reasons for refusal related to the shortfall in parking provision in relation to the Council's adopted standards. Whilst the appellant considered that too high a standard had been applied given the nature of the proposed use, the revised layout (referenced above) indicates that sufficient parking would be provided. This could be the subject of a condition. Although some of the spaces could be comparatively restricted I am satisfied that adequate parking could be provided.

Other matter - affordable housing contribution

37. Affordable housing was discussed in evidence and at the Inquiry, and both parties agreed that due to the nature of the accommodation, this should be provided by way of payment for off-site development. LP policy HG4 seeks 40% provision, whilst emerging policy LP5 seeks 30% subject to viability testing. It is common ground that the latter figure should apply in this case, and I have no reason to disagree. Although the appellant considered that the park homes are affordable in themselves, nonetheless a completed s106 obligation was submitted to the Council during the course of the application and is before me⁹.

38. There are wide differences between the parties as to the amount of off-site funding which should be provided:

- The s106 obligation makes provision for a payment of £2,967.08 for each caravan occupied on a full residential basis. Even if it were assumed that this is the full 143 homes, and this is not agreed between the parties, this would total only £424,292. That is the only figure which is subject of an agreement or any other control.
- The Council's position, as set out in a note to the Inquiry¹⁰ is that, assuming 118 homes are permanent residential units, the figure should be £1,540,000.
- The appellant, as set out in a note to the Inquiry¹¹, considered the alternative calculation method put forward by the Council, which would result in a revised figure of £1,184,820. (This was stated to be something the appellant "would be prepared to consider" subject to trigger provisions).

39. There are various reasons for the wide disparity in the calculations, which I do not need to go into in detail here. It is unclear how many residential occupiers have already acquired residential park homes, there is a dispute as to the relevance of Council Tax records, and a further disagreement as to the relevance of the methodology employed in another appeal decision¹².

⁹ CD 12.1

¹⁰ Doc 9

¹¹ Doc 8

¹² CD 8.5

40. The position is that the only assured figure before me is that included in the s106 obligation, and I have to have regard to that. The other much higher figures are not in any way guaranteed and, even if I were to conclude that one or the other was reasonable, I have no way of ensuring such a contribution. What is clear to me however is that the s106 figure has been superseded by subsequent discussions and that it no longer represents a policy compliant figure. This weighs against the proposal.

Other matter – housing need

41. It is clear that the provision of housing accommodation is a matter which weighs in favour of the proposal. The change from holiday accommodation to permanently occupied homes would accord with national policy to significantly boost the supply of homes.

42. I also give some weight to the appellant's argument that the nature of the accommodation makes it likely that it would be occupied by a higher proportion of elderly persons than would otherwise be the case, and that this would accord with national policy to meet the needs of that group. I appreciate that the park homes have steps to the front door, but I do not agree that this makes them unsuitable for the elderly – not all of whom have mobility issues.

43. With that background, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic (which includes age) and people who do not share it. However it does not follow that the appeal should automatically succeed but the equality implications add weight to the arguments in favour of the proposal.

44. However I do not agree that additional weight should be given to meeting the needs of the elderly on the basis that the Council's emerging policy is deficient. Draft policy LP2 deals with housing choice and meeting the needs of older persons and I have no evidence to demonstrate that it is deficient.

Other matter – planning obligation

45. As referenced above a s106 obligation has been completed¹³. Leaving aside the matter of affordable housing, the obligation would restrict the occupation to those aged 50 or over. That is in line with the intent of the proposal and is necessary to control the use of the development.

46. The obligation also deals with healthcare provision, in line with LP policy QL12 and draft policy HP1, and has been agreed with the health authority¹⁴. Similarly there is an obligation aimed at mitigating environmental effects which has been agreed with Natural England¹⁵.

47. I conclude, based in part on the Council's CIL Compliance Statement¹⁶ that the provisions are directly related to the proposed development and are necessary to make the proposal acceptable in planning terms. I therefore consider that the Obligation meets the policy in paragraph 56 of the Framework and the tests

¹³ CD 12.1

¹⁴ Statement of Common Ground 2.8

¹⁵ Statement of Common Ground 2.7

¹⁶ CD11.1

in Regulation 122 of the Community Infrastructure Levy Regulations 2010. However, aside from the provision of the affordable housing contribution, the provisions are designed to mitigate the impact of the proposal or secure the details of the scheme and these elements therefore do not provide benefits in favour of the appeal.

Other matter – Sacketts Grove appeal

48. I return to the appeal decision at Sacketts Grove¹⁷. This granted permission for the change from holiday use to permanent residential occupation and has some obvious similarities with the current appeal. However it is notable that the Council accepted in that case that it could not demonstrate a five year supply of deliverable housing land. The so called 'tilted balance' in national policy was engaged in that instance, and the Inspector described this as an important material consideration. This clearly distinguishes that case from the current appeal.

Planning balance and conclusion

49. The parties agree that the Council can demonstrate a five year housing land supply, and the tilted balance under paragraph 11 of the Framework is not engaged for that reason. The appellant suggested that the adopted LP is out of date due to its age, but what matters is whether the plan is consistent with the Framework, and no material inconsistencies have been put before me.
50. In conclusion, the proposal would clearly conflict with adopted and emerging policies related to the retention of holiday accommodation and to the provision of housing outside settlement boundaries. There would also be a shortfall in provision of off-site affordable housing. Set against that is the provision of housing in general and housing for the elderly in particular, which are matters to which I attach considerable weight. However they do not come close to outweighing the harm which the proposal would cause in the light of adopted and emerging policy.
51. For the reasons given above I conclude that the appeal should be dismissed.

P. J. G. Ware

Inspector

¹⁷ CD 8.5

TENDRING DISTRICT COUNCIL

Robin Green of Counsel. Instructed by the Solicitor to the Council

He called:

Martin Carpenter BA(Hons) MRTPI	Director, Enplan
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THE APPELLANT

Martin Edwards of Counsel. Instructed by Martin Taylor

He called:

Martin Christopher Taylor BA(Hons) MRTPI MIED	Principal (senior Director) Avison Young
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INTERESTED PERSON

Carol Bannister	Local resident
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INQUIRY DOCUMENTS

Doc 1	Appellant's opening statement
Doc 2	Council's opening statement
Doc 3	Council Tax records
Doc 4	Register of addresses
Doc 5	Statement read out by Carol Bannister
Doc 6	Notes and definitions re. Council Tax
Doc 7	Permitted and restricted number of caravans
Doc 8	Appellant's note regarding affordable housing calculations
Doc 9	Council's note regarding affordable housing calculations
Doc 10	Appellant's closing statement
Doc 11	Council's closing statement

CORE DOCUMENTS

CD1	Application Documents and Plans
CD1.1	Application form
CD1.2	Residential dwelling units – supplementary information form
CD1.3	Planning Statement by Avison Young - January 2020
CD1.4	Site Location and Ownership Plan by Avison Young (Ref: AY/02B607562/01)
CD1.5	Site Wide Masterplan by Landscape Planning & Design (Ref: NC16.256-P-223)
CD1.6	Revised Site Wide Masterplan by Landscape Planning & Design (Ref: NC16.256-P-223 Rev A)
CD1.7	Flood Risk Assessment & Outline Drainage Strategy by Bilfinger GVA - September 2016
CD1.8	Revised Surface Water Drainage Strategy by Avison Young - November 2019
CD1.9	Micro Drainage Report by Avison Young - January 2020
CD1.10	Link to drone footage of site – July 2020
CD2	Consultation Responses and Representations
CD2.1	Tendring DC Building Control – 27 February 2020
CD2.2	Essex County Council SuDS – 2 March 2020
CD2.3	Essex County Council SuDS – 5 March 2020

CD2.4	NHS North East Essex – 28 April 2020
CD2.5	Tendring DC Public Realm, Open Space & Play – 30 April 2020
CD2.6	Natural England – 29 May 2020
CD2.7	Tendring DC Public Realm, Open Space & Play – 1 June 2020
CD2.8	Representations – Part 1
CD2.9	Representations – Part 2
CD2.10	Representations – Part 3
CD2.11	Representations – Part 4
CD3	Site Planning History
CD3.1	11/00897/FUL – committee report and decision
CD3.2	16/00554/FUL – delegated report and decision
CD3.3	16/01564/FUL – delegated report and decision
CD3.4	17/00567/FUL – committee report and decision
CD3.5	19/00075/DISCON – decision and site plan
CD3.6	19/00707/FUL – delegated report and decision and location plan
CD4	Committee Report and Decision
CD4.1	Committee Report re 20/00119/FUL
CD4.2	Committee Minutes re 20/00119/FUL
CD4.3	Decision Notice 20/00119/FUL – 27 th July 2020
CD5	Planning Practice Guidance
CD5.1	Paragraph 012 – Housing for Older and Disabled People
CD6	The Development Plan
CD6.1	Tendring District Local Plan 2007
CD6.2	TDLP Map Weeley and Weeley Heath
CD6.3	Tendring District Local Plan 2013-2033 and Beyond - Section 1 (adopted January 2021)
CD7	Emerging Development Plan and Evidence Base
CD7.1	Tendring District Local Plan 2013-2033 and Beyond – Publication Draft
CD7.2	Tendring District Local Plan 2013-2033 and Beyond – Policies Map 2
CD7.3	Tendring DC SHLAA dated May 2020
CD7.4	Note on the effect of the removal of the Rouses Farm development from the five year housing land supply
CD7.5	Note regarding sites identified in the SHLAA (May 2020) as having resolution to grant permission
CD7.6	Note on the effect of the removal of developments without extant consent (when SHLAA published) from the five year housing land supply
CD7.7	IED/022 The eLP examining Inspector’s letter dated 15th May 2020
CD7.8	IED/026 the eLP examining Inspector’s letter dated 9th September 2020
CD7.9	eLP examining Inspector’s Report on the examination of NEA Section 1 - 10th Dec 2020
CD7.10	eLP examining Inspector’s Schedule of Recommended Main Modifications NEA Section 1 - 10th Dec 2020
CD7.11	Report/agenda to Full Council committee meeting 26 th January 2021
CD7.12	Housing Delivery Test 2019
CD7.13	Strategic Housing Market Assessment Update December 2015
CD7.14	Holiday and Residential Park Impact Assessment (2019/20) – August 2020
CD7.15	Section 2 Local Plan RR7 Schedule of Representations and Responses - Chapter 6 - Prosperous Places.
CD7.16	Section 2 of the Tendring District Local Plan ‘2013-2033 and Beyond’ Council’s Proposed Modifications – January 2021

CD7.17	Note on proposed modifications to section 2 of the draft Local Plan regarding safeguarded holiday parks – 22 February 2021
CD8	Relevant Appeal Decisions
CD8.1	3239002 - Foots Farm Clacton
CD8.2	3256190 - St Johns Nursery, Clacton
CD8.3	3183981 - Starena Lodge Caravan Park, Clacton Road, Weeley – January 2018
CD8.4	2176728 - Starena Lodge Caravan Park, Clacton Road, Weeley – January 2014
CD8.5	3226280 - Sacketts Grove Caravan Park
CD8.6	3254569 – East of Bentley Road, Weeley
CD8.7	3259758 – Land South of Hallfieldgate Lane, Shirland – 22 January 2021
CD9	Other Docs
CD9.1	Essex Planning Officers Association Parking Standards (2009)
CD9.2	The Essex Design Guide (2018) - Essex County Council
CD9.3	The Essex County Council Developers' Guide to Infrastructure Contributions Revised Edition 2016
CD9.4	Essex County Council Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS) Habitats Regulations Assessment Strategy document 2018 2038
CD9.5	TDC HRA Form – May 2020
CD9.6	Map of Colne Estuary SPA
CD9.7	Citation document for Colne Estuary SPA
CD9.8	Conservation Objectives for Colne Estuary SPA
CD9.9	Colne Estuary SPA feature condition summary
CD9.10	Map of Hamford Water SPA
CD9.11	Citation document for Hamford Water SPA
CD9.12	Conservation Objectives for Hamford Water SPA
CD9.13	Hamford Water SPA feature condition summary
CD9.14	Map of Blackwater Estuary SPA
CD9.15	Citation document for Blackwater Estuary SPA
CD9.16	Conservation Objectives for Blackwater Estuary SPA
CD9.17	Blackwater Estuary SPA feature condition summary
CD9.18	Map of Dengie SPA
CD9.19	Citation document for Dengie SPA
CD9.20	Conservation Objectives for Dengie SPA
CD9.21	Dengie SPA feature condition summary
CD9.22	Map of Stour and Orwell Estuaries SPA
CD9.23	Citation document for Stour and Orwell Estuaries SPA
CD9.24	Conservation Objectives for Stour and Orwell Estuaries SPA
CD9.25	Stour and Orwell Estuaries SPA feature condition summary
CD9.26	Transport & Sustainability Statement - Allhallows Golf Course, Kingsmead Park, Allhallows, Rochester, Kent, ME3 9QJ
CD9.27	Revised drainage strategy from application 19/00707/FUL
CD9.28	Consultation Response from Anglian Water Services for 19/00707/FUL
CD9.29	Approval of details of Conditions 6-9 from application 19/00075/DISCON
CD9.30	Rightmove Data from Weeley catchment (within 1 mile)
CD9.31	Tendring District Council's Hearing Statement of Case from the Sacketts Grove appeal (Ref: APP/P1560/W/19/3226280)
CD9.32	Affordable Housing and Economic Viability Assessment – BNP Paribas Real Estate (September 2019)

CD9.33	Appellant's critique of Affordable Housing and Economic Viability Assessment – Sacketts Grove Appeal – Ref: APP/P1560/W/19/3226280
CD9.34	Correspondence relating to affordable housing contributions
CD9.35	Extracts from 1960 and 1968 Caravan Acts providing Legal Definition of a Caravan
CD9.36	Email from LPA dated 20 January 2021 withdrawing LPA drainage objection
CD9.37	Oakleigh Park rules
CD9.38	Plan No. NC16.256-P-233 Rev B
CD9.39	Rightmove search 24 January 2021
CD9.40	Photographs of site and surroundings – 22 January 2021
CD9.41	Note on the status of planning consents for residential development in Weeley and Weeley Heath – 22 February 2021
CD10	Conditions
CD10.1	List of draft conditions – 1 February 2021
CD11	CIL Compliance Statement
CD11.1	CIL Regulation Interim Compliance Statement (4 th February 2021)
CD12	S106 Agreement/UU
CD12.1	Unilateral Undertaking – July 2020
CD12.2	Appellant and TDC's Solicitors emails of 4 June 2020 and 10 June 2020
CD13	Appeal Documents
CD13.1	Appellant's Statement of Case & Appendices
CD13.2	LPA Statement of Case
CD13.3	Inspector's Case Management Conference Agenda re 18 January 2021
CD13.4	Inspector's Post-Case Management Conference Note - 20 January 2021
CD13.5	Statement of Common Ground signed February 2021
CD13.6	Appellant's Proof of Evidence re Planning & Appendices and summary
CD13.7	LPA's Proof of Evidence re Planning & Appendices
CD13.8	Appellant's Drainage Statement



Costs Decision

Inquiry held on 2 - 3 March 2021

Site visit made on 25 March 2021

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2021

Costs application in relation to Appeal Ref: APP/P1560/W/20/3263229 Oakleigh Residential Park, Clacton Road CO16 9DH

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Oakleigh Residential Park Ltd for a full award of costs against Tendring District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for a change of use to create a retirement park by allowing the residential use of caravans approved under planning permissions APP/P1560/W/17/318391 and 19/00707/FUL.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The costs application was submitted in writing (and was subsequently amended in relation to the name of the claimant), and responded to by the Council in writing, along with a brief comment in closing.
3. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The claim was for a full award of costs on the basis that the refusal was unreasonable and not supported by evidence. I will deal briefly with the various aspects of the claim.
5. The claimant alleges that the parking/highways objection made by the Council was based on an incorrect application of the policy and was made in the absence of an objection from the highway authority. I am not persuaded that this was the case and, in any event, this matter was resolved by the appellant by the submission of a revised plan.
6. In a similar vein, the appellant claims that the reason for refusal was unreasonable. However the appellant submitted further information which led to the objection being withdrawn.
7. In relation to both of these matters I find that the Council acted reasonably and that they were appropriately resolved by the submission of further material by the appellant.

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8. Turning to unresolved matters which were the subject of evidence and took Inquiry time, the claimant's position is that the tourist and settlement policies on which the Council relied were either out of date or not yet adopted. The Council therefore was alleged to have acted unreasonably in relying on them. However in my decision on the s78 appeal I have found the adopted policies to not be out of date and that emerging policies should be accorded sufficient weight that they were a material consideration.
 9. The claimant states that the contribution they put forward toward affordable housing was based on an identical appeal decision. I have found that the appeal in question was not identical and that, in any event, there was a wide margin of disagreement between the parties on the affordable housing matter. This was based on understandable but unresolved positions. For there to be different approaches is not inherently unreasonable.
 10. Finally, in the costs claim but not elsewhere, the claimant alleged that the Council's planning committee were influenced by the traveller background of the appellant. In fact the appellant is a company, though I assume from this that one individual behind the company may have a traveller background. I have seen no evidence to support this allegation, and when I raised this matter at the Case Management Conference before the Inquiry, no party wished to pursue it.

Conclusion

11. I find that unreasonable behaviour, as described in Planning Practice Guidance, has not been demonstrated and that a full award of costs is not justified.

P. J. G. Ware

Inspector