



# Appeal Decision

Site visit made on 22 June 2007

by **R J Yuille** Msc Dip TP MRTPI

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

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Date: 25 July 2007

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## Appeal Ref: APP/W1850/A/07/2035174

### Land to the rear of Mortimers Cross Inn, Mortimers Cross, Nr Leominster, HR6 9PD

- 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 Paul Williams against the decision of Herefordshire Council.
- The application Ref: DCNW2006/1672/F, dated 24/05/06, was refused by notice dated 21/07/06.
- The development proposed is the change of use of camping/caravan site (Planning application 77C1020) Certified Site No: 149/083 to holiday chalet development - erection of 8 chalets in landscaped gardens.

### Summary of Decision: I dismiss the appeal.

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#### Background – use of the site

1. The appeal site has planning permission (Ref: 77C1020) as a touring caravan site for a maximum of three caravans and three tents at one time. Conditions attached to this permission restrict the use of caravans to no more than 5 consecutive days with no caravan being occupied between 31 October in one year and 1 March in the next.
  2. In 2002 the Camping and Caravanning Club issued a 5 Caravan Certificate for the site (No: 149/083) but has since confirmed that this licence no longer exists as it was understood that the site was closed and sold for building. The appellants position is that he simply sought to give warning that the site was due to close when the chalets were erected but in the event it did not close. It would be a formality to rectify this misunderstanding. My view is that while this may be the case the site does not currently have a Camping and Caravanning Club certificate.
  3. Part of the site has in the past been used as a builder's storage area in conjunction with works to refurbish Mortimers Cross Inn but I saw little evidence of this use at my site inspection. Much of the site is hardsurfaced and when I visited it contained a mobile home, 2 portacabins, a shed and 2 liquid gas containers all of which are the subject of enforcement action. A touring caravan was also stationed on the site.
  4. The appellant states that the appeal site is by definition brownfield land but does not develop this argument. The definitions in question are those in the *Herefordshire Unitary Development Plan* and in Annex B to Planning Policy Statement 3: *Housing* with their references to permanent structures and associated fixed surface infrastructure. However, with the pending
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enforcement action it is not clear to me whether the structures on the site, or indeed the hardsurface, are lawful and I am not in a position therefore to determine whether the site falls into the category of brownfield land.

### **Procedural Matters - plans**

5. The appeal site is located at the junction of the A4110 and the B4362, immediately to the rear of Mortimers Cross Inn. The appellant previously owned both the appeal site and the public house and when he sold the latter he retained both part ownership of a 10 metre wide strip across the northern part of the pub car park and rights of way across any part of that car park. Access to the proposed chalets would be gained across this car park. The plans originally submitted with the application the subject of this appeal did not show this land as being in the appellant's ownership but a revised plan rectifying this was submitted before the Council determined this application. I will, therefore, take account of this plan in determining this appeal.
6. No drawings showing the plans and elevations of the proposed chalets are provided but the supporting documents submitted with the application the subject of this appeal includes photocopies of photographs of a Napier type lodge together with a general layout plan and two elevations. I will take these into account in determining this appeal.

### **Procedural matters –scope of this appeal**

7. The purpose of this appeal is to determine whether or not planning permission should be granted for the appeal scheme as submitted.
8. The appellant invites me to find that the mobile home on the site has a lawful use as a "dwelling house" and for information submits a plan showing how it could be accommodated on the site (Ref: 34212/020A). However, this plan does not form part of the appeal that is before me and the lawfulness or otherwise of the mobile home is not a matter over which I have jurisdiction.
9. An emergency access onto the B4362 is proposed as part of the appeal scheme. The appellant is involved in a dispute with the Council regarding a former access from the site onto this road that was lost at the time that highway improvements were carried out. Again this is not a matter that is before me.
10. The appellant asks me to determine the appropriate number of chalets for this site. Once again this is not a matter for me to determine.

### **Policy**

11. At the time that the Council determined the planning application the subject of this appeal the *Leominster Local Plan* formed part of the development plan. However, this has now been replaced by the *Herefordshire Unitary Development Plan* (UDP) adopted in March 2007 and it is on the basis of the policies in the UDP that I will determine this appeal. All development plan policies referred to subsequently in this decision are from the UDP.
12. While the appellant provides an exhaustive commentary on the contents of the development plan I consider the most relevant policies to be Policy RST14, as referred to by the Council in its evidence rather than in its reasons

for refusal, and Policy LA2. My reason for attaching such significance to the former policy is that, amongst other things, it this deals specifically with the siting of chalets while the latter policy deals with landscape character. I will deal subsequently with the content of these policies.

13. Planning Policy Statement 7: *Sustainable Development in Rural Areas* cautions against the use of rigid landscape designations that may restrict sustainable development and the economic activity that underpins the vitality of rural areas. *The Good Practice Guide on Planning for Tourism* stresses the need in considering applications for developments such as chalets to carefully weigh the objective of providing adequate facilities and sites with the need to protect landscapes.

### **Main issues**

14. I consider the main issues in this appeal to be; firstly, the effect of the proposed development on the character and appearance of the countryside; and, secondly, its effect on highway safety.

### **Reasons**

#### *Character and Appearance*

15. The appeal site is located to the rear of Mortimers Cross Inn and is seen in the context of that building and its car park and of other farm buildings and dwellings in the vicinity. Nonetheless the site is in the countryside; Policy RST14 states that new chalet parks will not be permitted if they would cause harm to the character and appearance of the countryside.
16. It is, moreover, in a part of the countryside which is identified by the Council in its Landscape Character Assessment as being an area of Riverside Meadows. Policy LA2 seeks to resist development that would adversely affect the character of such a landscape or its key attributes.
17. The appeal site is well screened to the east by the Inn, to the south by close boarded fencing along the B4362 and to the west by trees, predominantly conifers. However, from points on the road and footway to the north it is open to views across a low fence and through an intermittent hedgerow that marks the boundary with the adjoining meadow.
18. It is proposed to locate four closely spaced chalets along this boundary in a position where they would be clearly visible from the north. The landscaping proposed in this position would do little to alleviate this, certainly in its early years, and one of the chalets (chalet 8) would be so close to the boundary that no hedging is proposed. I acknowledge that the proposed landscaping follows advice given by the Council's Landscape Officer but that officer also expressed concern about the scale and character of the proposed development, concerns that I share.
19. The eight chalets, together with their parking and circulation areas, would occupy much of the appeal site. The evidence available to me indicates that these would be substantial buildings and that they would be closely spaced. I consider that such an intense form of development would extend the built up area of Mortimers Cross in an unacceptable manner, particularly when seen from the north.

20. The appeal site, which is largely hardsurfaced, is clearly not a riverside meadow at present nor does it resemble one. Nonetheless, elements of the 'Riverside Meadow' landscape are to be found in the vicinity, for example the open meadow to the north. Policy LA2 makes clear that proposed developments should demonstrate that such landscape character has influenced its design and scale. With the appeal scheme in place the whole of the site would be dominated by the presence of the chalets and to my mind no obvious attempt has been made in the design of this scheme to recreate the character of a riverside meadow.
21. A marketing report prepared on behalf of the appellant gives some indication of a demand for chalets in Herefordshire. Certainly local people are of the opinion that these chalets would be of benefit to the local economy, a view shared by the owners and tenant of the Mortimer Cross Inn who consider that they could provide a vital boost to trade. However, I do not consider that these are matters that outweigh the significant harm that the proposed development would cause to the character and appearance of the countryside.
22. I consider, therefore, that the appeal scheme would conflict with the aims of Policies RST14 and LA2 of the Herefordshire Unitary Development Plan.

#### *Highway safety*

23. The Council's Area Engineer raised no objection to the appeal scheme on the grounds of highway safety. As has been established the proposed access onto the A4110 would be across the car park to Mortimers Cross Inn. I saw on my site inspection visibility at the access of that car park onto the A4110 is good. Much of the Council's concern about the proposed access relates to its uncertainty as to whether the appellant owned or controlled the access, the lack of clarity as to what is proposed, the loss of parking spaces and an inability to impose a planning condition on the whole car park requiring the demarcation of parking spaces.
24. It has now been established that the appellant does own or control sufficient land to enable an access to be provided across the car park and I consider that the precise details of this could be dealt with by way of an appropriately worded planning condition. This could involve the loss of some parking spaces but given that the appellant owns part of the land now used as a car park there is no certainty that this will always remain available for parking. If the access were provided on the land owned by the appellant there would be no need to require that parking spaces be marked out on the remainder of the site.
25. As to the proposed emergency access, I consider that visibility at the proposed junction, while not ideal, is adequate for emergency use. I understand the Council's desire to ensure that it is not used on a regular basis but, like the Area Engineer, I consider that this could be achieved by way of a planning condition requiring the erection of signs and the construction of a barrier capable of being broken in emergency. The proposed development would, therefore, meet the relevant aims of Policy RST14 of the Herefordshire Unitary Development Plan in that traffic generated by it could be safely accommodated on the local highway network.

*Other Matters*

26. The appellant refers to numerous other examples of caravan and chalet developments, some in close proximity to the appeal site and others further afield, where higher density development than is proposed in the appeal scheme has been permitted or which he considers to be more prominently located than the appeal scheme. However, these simply illustrate that decisions in cases such as these are highly site specific and what may be considered acceptable on one site is not necessarily acceptable on another.
27. I do not consider, therefore, that this extensive list of sites sets a convincing precedent for granting planning permission for the appeal scheme nor indeed does the fact that planning permission has been granted for the refurbishment of Mortimers Cross Inn.

**Conclusions**

28. While I am satisfied that a safe access could be provided to the appeal site this is outweighed by my concerns about the unacceptable effect that the proposed development would have on the character and appearance of the countryside. For these reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

**Formal Decision**

29. I dismiss the appeal.

*RJ Yuille*

Inspector