Appeal Decision
Hearing held on 8 September 2009
Site visit made on 8 September 2009
by Anthony Lyman BSc(Hons) DipTP
MRTPI
an Inspector appointed by the Secretary of State
for Communities and Local Government

Appeal Ref: APP/Q9495/A/09/2104078
Sunny Orchard, Kentmere Road, Staveley, Near Kendal, Cumbria, LA8 9JF
- 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 Mark Kidd against the decision of Lake District National Park
  Authority.
- The application Ref 7/2008/5417, dated 4 July 2008, was refused by notice dated 17
  December 2008.
- The development proposed is a temporary agricultural caravan.

Procedural matter
1. The above description of the proposal is taken from the application form.
   However, earlier this year the appellant custom-built a caravan measuring
   approximately 6.1m long and 2.14m wide and clad in timber with a turf roof.
   This caravan is now on site in the approximate position shown on the plan
   submitted with the application. Therefore, in the interests of certainty I will
   determine this appeal on the basis of this specific structure.

Decision
2. I allow the appeal, and grant planning permission for a temporary agricultural
   caravan measuring approximately 6.1m long and 2.14m wide and clad in
   timber with a turf roof at Sunny Orchard, Kentmere Road, Staveley, Near
   Kendal, Cumbria, LA8 9JF in accordance with the terms of the application, Ref
   7/2008/5417, dated 4 July 2008, and the plans submitted with it, subject to
   the following conditions:
   1) The occupation of the caravan shall be limited to a person solely or
      mainly working, or last working, in the locality in agriculture or forestry,
      or a widow or widower of such a person, and to any resident dependants.
   2) The caravan hereby permitted shall not be sited otherwise than in the
      position shown on the plan submitted with the application, unless
      otherwise agreed in writing by the local planning authority.
   3) Upon the expiration of three years from the date of this permission, the
      use of the land for the siting of a caravan shall be discontinued,
      whereupon the caravan hereby permitted shall be removed and the land
      restored to its former condition in accordance with a scheme of work
      submitted to and approved in writing by the local planning authority.
4) Unless otherwise agreed in writing by the local planning authority, no other replacement caravan or temporary dwelling shall be situated on the land, the subject of this application, other than the caravan described in the decision above.

Main issue

3. The main issue relating to this appeal is whether there is an agricultural need for a new temporary dwelling, sufficient to outweigh the aims of local and national planning policies that seek to restrict new development in the countryside.

Reasons

4. Sunny Orchard comprises 1.05 ha of land in the Kentmere valley, near to Staveley, Cumbria. In 2007, the appellant purchased the site which included a block of three stables recently built of stone under a slate roof by the previous owner. Since acquisition, the appellant has been developing a horticultural enterprise aimed mainly at producing salad crops, soft fruits of raspberries, blueberries and blackcurrants together with apples, pears and plums from a recently planted orchard. The proposal is for a temporary agricultural caravan to enable the appellant to live on site throughout the year.

5. The caravan, to which the application relates, was moved onto the site earlier this year following a suggestion from the local planning authority that the appellant takes advantage of permitted development rights, to occupy the caravan on a seasonal basis.

6. Planning Policy Statement 7 – Sustainable Development in Rural Areas, (PPS7) emphasises that isolated new dwellings in the countryside require special justification for planning permission to be granted and that one of the few circumstances in which a dwelling may be justified is where the accommodation is required to enable an agricultural worker to live at or near to his place of work. PPS7 advocates that for the first three years, temporary accommodation should be provided by a caravan or wooden structure, subject to a number of functional and financial tests.

7. The appellant has submitted a business plan with financial projections for 2009 to 2011, and a three year development timetable. In addition to the cost of acquiring the site, the appellant has expended a further £50,000 on, amongst other things, the construction of a substantial solar greenhouse, the conversion of part of the modern stables into a washing, preparation and packaging area for the produce, and the development of the land, including planting an orchard. The Authority’s external consultants, Capita Symonds, have verified the expenditure figures. Despite significant pest related problems which have, at times, decimated production and set back progress with the enterprise, the appellant has persevered, sales have increased and importantly, organic status for the site and its production has been confirmed earlier this year.

8. Therefore, it is clearly evident from the significant investment and commitment that the appellant has a firm intention and ability to continue the development of this intensive horticultural enterprise. Furthermore, despite the setbacks, which have put the project approximately one year behind schedule, it has
been demonstrated that the enterprise has been planned on a sound financial basis.

9. PPS7 also requires there to be a functional need for a worker to be readily available at most times. For a permanent agricultural dwelling there has to be an existing functional need. However, in the case of a temporary dwelling the word ‘existing’ is omitted from the test. The Authority’s consultants, Capita Symonds, concluded in September 2008 that, *there is an existing functional need but at this point in time it is relatively small. The functional need will increase as the enterprise expands*. On the basis of this statement, the Authority concluded that the relatively small functional need did not justify a temporary permission for a caravan. However, PPS7 does not set a threshold relating to the level of need for a temporary dwelling to be justified, and at the Hearing the Authority was unable to indicate at what point they would consider that the functional need test had been satisfied.

10. In the twelve months since the Capita Symonds appraisal, the appellant has purchased a flock of ducks, not only to supply organic eggs for sale, but to forage the horticultural beds to eradicate the problem of pests, in particular slugs. The business has also expanded and sales have increased partly as a result of the appellant having lived in the caravan on site since May. It is evident that with the flock of ducks to look after, the manual effort required on a daily basis to run the holding and in particular the essential need to guard against frost damage to the crops in winter, there is a clear functional need for the appellant to reside on site at most times. Automated ventilation systems and temperature alarms could reduce that functional need, however, I accept that these are expensive and beyond the reach of this embryonic enterprise.

11. I am also satisfied that the functional need could not be adequately met by other accommodation in the area. It was confirmed at the Hearing that the shortage of affordable housing in the area is a priority for the authority and I note Capita Symonds’ findings that *there is no other existing accommodation in the area which is suitable and available for occupation by the worker concerned*. House prices in this part of the Lake District are generally beyond the reach of an agricultural worker. PPS7 suggests that accommodation in a nearby village may meet the functional need in a more sustainable location. However, even if affordable rented accommodation was available in the nearest settlement of Staveley, I consider that it would not satisfy the functional need of this enterprise because of the distances involved.

12. Policy H10 of the Lake District National Park Local Plan (the Local Plan) aims to protect the special landscape of the National Park and states that mobile homes and caravans will not normally (my emphasis) be permitted as permanent accommodation by reason of their unacceptable form, materials of construction, design and visual impact. However, the appellant’s existing temporary dwelling is far removed from the appearance of a traditional caravan, being timber clad and with a turf roof. It is relatively small and is positioned virtually out of site behind the existing stable block where it has minimal impact on the character and appearance of the Lake District National Park. Therefore, I consider that this eco-friendly caravan complies with the aims of Policy H10 and as such should be treated as an exception, which the policy allows.
13. Furthermore, the dwelling complies with Policy NE1 of the Local Plan which requires developments in the open countryside to respect the character of the area and not cause demonstrable harm to landscape, nature conservation or cultural heritage. However, to ensure that the siting and appearance of the caravan are not changed in the future, without the written approval of the local planning authority, I will impose appropriate conditions.

14. In accordance with the advice contained in PPS7, I will also attach a condition requiring the caravan to be removed and the land restored on expiry of three years from the date of this permission. However, as the caravan is now on site, a standard commencement condition as originally suggested by the Authority is not necessary. As the caravan has been justified and allowed on the basis of agricultural need, I will impose an agricultural occupancy condition.

15. The highway authority requested the imposition of a number of conditions relating to improving the access to the premises. However, I share the view of the local planning authority that as the dwelling uses an existing, established access and drive and generates little, if any, additional traffic, the imposition of these conditions would be unreasonable and unnecessary.

Conclusion

16. I conclude that the proposal satisfies the tests required in PPS7 Annex A, and that there is sufficient justification for a temporary agricultural caravan for the appeal to succeed.

17. For the reasons given and having had regard to all other matters raised, I allow the appeal, subject to the conditions I have imposed.

Anthony Lyman

INSPECTOR
Appeal Decision

Site visit made on 12 October 2009

by Christopher Checkley
BA(Hons) MRPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Appeal Ref: APP/Q9495/A/09/2107115
5 Windebrowe Avenue, Keswick, CA12 4JA

- 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 B Harding against the decision of the Lake District National Park Authority.
- The development proposed is extensions to dwelling.

Decision

1. I dismiss the appeal.

Main Issue

2. The main issue is the effect of the 2-storey side extension upon the living conditions of the neighbouring residents at No 3 and No 1 Windebrowe Avenue, with particular regard to levels of daylight, sunlight, outlook and visual impact.

Reasons

3. No 5 Windebrowe Avenue is a two-storey semi-detached house with a pitched roof. Its gable end faces north-west directly towards the rear of No 3 which has only a short rear garden that includes an intervening detached garage near the boundary. No 3 adjoins a semi-detached neighbour (No 1) to its south-west which has several mature trees within its small rear garden that cast extensive shading over the rear of the semi-detached properties during the afternoon and evening periods.

4. At present, the gable end of the appeal property stands in the region of 9m from the rear elevation of No 3. However, planning permission has recently been granted for a subordinate two-storey side extension that would project sideways from the rear half of the gable. It would result in a gable end just over 4m in extent and 2-storeys high standing about 6.5m from the rear elevation of No 3, close enough in my opinion to have a detrimental effect on the living conditions of its occupants. Although the wider 2-storey extension now proposed would stand only some 375mm closer to the rear of No 3, the greater proximity becomes crucial in this particular case.

5. Because of its scale, its orientation relative to the sun and its greater proximity to the rear of No 3, I consider the wider extension proposed, seen rising above the existing garage in views from the ground floor windows and the associated
private garden area at No 3, would have a dominating visual impact. I consider it would also reduce the level of outlook and natural daylight enjoyed at the rear of No 3 and lead to increased overshadowing of the rear of the property during the morning periods. These effects would be especially marked during winter months when the sun remains lower in the sky to the south as it appears to move from east to west. The approved extension would cause a degree of detriment in my opinion and the harmful effects of the proposed scheme would be materially increased to a critical level.

6. Since the rear of No 1 is offset from the gable of No 5 it would not experience an unacceptably overbearing impact from the extension, although it would suffer an appreciable loss of morning sunlight. Although less serious than in the case of No 3, the detrimental effects would also be unacceptable in this situation where the mature trees already cause significant overshadowing in the afternoons and evenings and consequent reductions in daylight levels.

7. The Council raise no objection to the front porch or the single-storey rear sunroom proposed. I too find no reason to raise any objection to these elements which would have no materially harmful effects upon the living conditions of the neighbours.

8. I conclude that the widened two-storey side extension now proposed would result in unacceptable harm to the living conditions of the residents of No 3 and No 1 Windebrowe Avenue as a result of the dominating visual impact and reductions in levels of outlook, daylight and sunlight, even compared with the approved scheme. This appeal must therefore fail.

C J Checkley

INSPECTOR
Decision

1. I allow the appeal, and grant planning permission for the siting of 8 camping pods with associated car parking spaces at Hillcroft Caravan Park, Pooley Bridge, Penrith, Cumbria, CA10 2LT in accordance with the terms of the application, Ref 7/2008/3090, dated 1 October 2008, and the plans submitted with it, subject to the conditions set out in the appended Schedule.

Main Issue

2. The main issue is the effect of the development upon the natural beauty of this part of the Lake District National Park.

Reasons

3. The appeal site is within the boundaries of the large established Hillcroft caravan and camping park which lies to the south-east of Pooley Bridge close to Ullswater within the Lake District National Park. At the time of my visit four pods had been placed on the site but not in the positions shown on the submitted plans. I am dealing with the application as a proposal for the scheme shown on the submitted plans.

4. National policy indicates that National Parks have the highest status of protection in relation to landscape and scenic beauty. The twin statutory purposes of the National Parks are first, to conserve and enhance their natural beauty, wildlife and cultural heritage; and second, to promote opportunities for the understanding and enjoyment of the special qualities of the National Parks by the public. In cases of conflict, greater weight is to be attached to the conservation and enhancement purpose.

5. The camping pods are fabricated elsewhere and then delivered to the site where they are placed in position on the land without the need for foundations
and without being connected to any services. Camping pods, being a relatively recent innovation, are not specifically referred to within planning policies. Both parties consider that the camping pods would fall within the statutory definition of a caravan, which includes any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicles so designed or adapted, but does not include any tent. I have no reason to take a contrary view.

6. Policy T9 of the Lake District National Park Local Plan (LP) is therefore relevant. It permits the siting of static caravans only within the approved boundaries of established and well screened static caravan sites or on farms in connection with farm diversification proposals. Neither of these circumstances applies to the appeal proposal as the site lies outside the approved caravan area. Therefore, the siting of the pods would be contrary to the provisions of this development plan policy.

7. However, for a number of reasons I consider that a departure from policy would be justified in this particular case on an exceptional basis. First, the appeal site is already part of a well-established camping and caravanning site. Although the site for the proposed 8 camping pods lies outside the approved limits of the caravan area, it does lie within the approved tented camping area. Since use of a small area for the pods would be closely integrated with the existing uses on the site, I consider that the principle of the use is acceptable.

8. Second, although falling within the definition of caravans, the pods are in fact very much smaller and less obtrusive than either touring caravans or larger static caravans. They are relatively modest wooden structures about 4m x 2.5m in size with a single curved roof form enclosing a single internal space. The roof has a granular finish in brown that gives the appearance of a shingle roof and the front and rear panels are stained wood. Their impact is more akin to that of tents, although tents may even be larger and are usually more intrusive because of their bright colours.

9. Third, the site for the pods is a narrow belt of trees forming the boundary between two camping fields which are situated between the main static caravan area and a quiet cul-de-sac country lane alongside the perimeter of the caravan and camping park. This roadside boundary has the benefit of being landscaped with trees. The pods’ wooden construction and brown shingle-effect roofs makes them sympathetic to a location amongst trees. Their location is less open than that of the children’s play facilities that have been recently granted planning permission on the camping field to the immediate north. They would in any case be relatively well shielded from surrounding areas by mature trees. Although the pods would be likely to remain in place throughout the year, a condition could require appropriate landscaping measures to improve the screening of the pods, so that their impact was not unacceptable during the winter.

10. Fourth, occupiers of the pods would make use of the facilities that already exist on the caravan park, so it would not be necessary to build new facilities. Neither would it be necessary to displace existing camping pitches to make way for the pods. Fifth, although there is a residential property called the Vicarage
on the other side of the lane outside the camping park, it is set at a lower level beyond a mature screen of trees and shrubbery which could be suitably augmented under a landscaping condition to safeguard the amenities of the neighbouring residents.

11. Finally, the Authority recognises the importance of providing a range of holiday accommodation in many different locations throughout the National Park, its policies seeking to facilitate the development and enhancement of established static caravan sites to meet changing public demands and innovation in the industry, provided that in so doing the preservation of the natural beauty of the National Park is not compromised. The Authority indicates that there has been a reduction over the years in the availability of low-cost accommodation within the National Park. The camping pods would bring the benefit of relatively inexpensive basic accommodation for visitors to the National Park travelling by means other than private cars who might lack the equipment or the desire to carry tents to undertake conventional camping.

12. Having regard to all the above - including the modest size of the individual camping pods, their unobtrusive materials and design, and their position within a well-shielded section of an existing campsite - I conclude that, subject to appropriate conditions, the introduction of the camping pods would not compromise the duty of preserving the natural beauty of the National Park. There would be no material conflict with the objectives underlying LP Policy T9.

13. I have considered the set of conditions suggested by the authority against national advice in Circular 11/95 and elsewhere. I consider it necessary to impose several conditions to improve the landscape screening of the site and safeguard the natural beauty of the National Park in order to give effect to the terms of LP Policy T9. Precise details of the siting of the pods in relation to existing trees is to be agreed, the number of camping pods is to be limited to 8 and the pods are not to be replaced with other structures or caravans, a landscaping scheme is to be undertaken, the external timber of each camping pod is to be stained an agreed dark brown colour and the occupation of the pods is to be limited to the period 1 March to 15 November each year. Additionally, the use of the pods is to be restricted to holiday accommodation only, to avoid their inappropriate use as permanent residential accommodation within the open countryside which would be contrary to LP Policies H5 and H10.

C J Checkley

INSPECTOR
Schedule of conditions imposed on the grant of planning permission

14. The permission is subject to the following conditions:

(1) The development hereby permitted shall be commenced before the expiration of three years from the date of this decision.

(2) Notwithstanding the details shown on the submitted plans, a detailed plan showing the intended stationing of each of the pods in relation to the existing trees on the site shall have been submitted to and approved in writing by the local planning authority prior to the stationing of any of the camping pods hereby permitted on the site. The development shall be undertaken in accordance with the approved details.

(3) No more than eight camping pods shall be stationed on the land edged red on the submitted plan at any one time.

(4) None of the camping pods hereby permitted shall be replaced at any time by any other structures or caravans that differ from the approved details.

(5) No later than 12 months from the first stationing of any of the camping pods on the site, landscaping of the site shall be undertaken in accordance with the details of a scheme that has previously been submitted to and approved in writing by the local planning authority. The scheme shall include details of both hard and soft landscaping works, and shall include details of all existing trees on the site and details of the strengthening of the screening on the western roadside boundary of the site and the finish of the car parking spaces. Any trees or plants which, within a period of five years from the date of first planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

(6) All the external timber of each of the camping pods hereby permitted shall be stained dark brown in colour in accordance with details previously submitted to and approved in writing by the local planning authority prior to or within one month of each of the camping pods being stationed on the land.

(7) The camping pods hereby permitted shall not be occupied other than for holiday purposes and shall not at any time be used for the purposes of permanent residential accommodation.

(8) None of the camping pods shall be occupied outside of the period 1 March to 15 November in any year.