

Appeal Decision Notice

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Decision by R F Loughridge, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-290-2019
- Site address: Nivensknowe Park, Loanhead, Midlothian EH20 9PF
- Appeal by Nivensknowe Parks Ltd against the decision by Midlothian Council
- Application for planning permission reference 12/00517/DPP dated 16 August 2012, to carry out the development without compliance with condition(s) 1 2 and 3 imposed in the grant of planning permission 11/00816/DPP dated 21 March 2012
- The development proposed: a revised park layout to allow for the increase from 130 to 137 of the number of mobile home plots
- Date of site visit by Reporter: 6 March 2013

Date of appeal decision: 13 March 2013

Decision

I dismiss the appeal and refuse to grant planning permission as sought in the application.

Reasoning

1. Nivensknowe Park is a long established mobile home park extending to approximately 5.3ha, in which all the mobile homes are individually owned and occupied on a permanent residential basis. The Park has undergone a complex period of evolution since it was originally developed in the 1970s. It now presents a mature landscape context for a rich variety of plots and mobile homes, served by an internal one-way road system supplemented by a network of pedestrian pathways with, located broadly centrally, a large irregularly shaped area of open space laid out predominantly in grass.
2. The most recent planning consent is the latest in a series regulating the number of plots and the quality of residential amenity. Condition 3 is to the effect that there shall not at any time be more than 130 residential caravans or mobile home units within the application site. Condition 1 expressly disapproved five proposed units within the area of open space, a single unit proposed east of 22 Birch Crescent, and a single unit proposed immediately north of 1 Oak Avenue. Condition 2 required compliance with a revised site



layout plan to be submitted in accordance with these two conditions. The effect of the appeal, if it were to be allowed, would be to permit these additional seven units.

3. The determining issues in this appeal are twofold. First, whether the proposed increase in the number of units in the layout proposed complies with the provisions of the development plan, and if not whether a departure from the development plan is justified by other material considerations. Secondly, whether the noise levels emanating from the dog boarding kennels situated on the Park's northern boundary constitute a sufficiently adverse impact on residential amenity to warrant refusal of the proposed unit to the north of 1 Oak Avenue.
4. The relevant provisions of the development plan drawn to my attention by the Council comprise Midlothian Local Plan policy RP30, which, though not primarily directed at residential mobile home parks such as the appeal site, nonetheless indicates that development on open spaces should not be permitted in four sets of circumstances. These circumstances are, first, where such open spaces are visually important or an integral part of the layout of adjacent buildings; secondly, where the development would result in the loss of an attractive landscaped area; thirdly, where it would result in the loss of land important for informal recreation; and fourthly, where it would result in a material change in the character of the locality (unless it can be demonstrated that suitable alternative open space of similar quality can be provided in an appropriate nearby location).
5. I agree with the Council that these are apt provisions in assessing the current proposal. In my assessment, the proposal offends against each of these to a greater or lesser extent. I have no doubt that the area of open space, regardless of its level of use for recreation, forms a visually important feature. It is integral to the current layout of the appeal site and to the landscape context of the locale; and to develop it as proposed would result in a material change in the character of the locale. In my opinion it is of fundamental importance to the overall amenity of the park, and it should not be given over to development or significantly reduced in scale, character or appearance. To do so would seriously diminish residential amenity within the Park.
6. I note that its level of use for recreation is disputed. I was not provided with any detailed information in that regard; but in my assessment, however limited actual use is currently, it is the only readily available area of meaningful proportions for residents to use outwith the necessarily restricted plots on which the respective units are located. I note also that the Council and the developer's agent do not agree on how the amount of amenity land should be measured. I have given careful consideration to the different approaches made by each side and have come to the conclusion that the Council has adopted the right approach. When assessing the impact of the loss of land for informal recreation purposes, it seems to me to be right to discount unusable, though perhaps still visually important, areas in the computation. In this case the proportion of the usable open space does not appear to me to be excessive in amount, and I am not satisfied that a reduced area would meet the requirements, objectively assessed, of a park with the total number of units proposed in the layout proposed.
7. That leaves for consideration the level of noise from the kennels and its impact on the proposed single unit immediately north of 1 Oak Avenue, which is located some little way from the central amenity area. I agree with the Council that the proposed location is

too close to the existing dog boarding kennels for residential use having regard to the noise level. On my site visit, I was struck by the level of noise emanating from the kennels and from its continuous nature. I accept that the proposed additional unit might be no worse than some existing units in this regard; but that does not by itself appear to me to be a sound basis on which to intensify residential use in the immediate area, even as modestly proposed. The proposed screen landscaping would not in my view result in sufficient amelioration. I also agree that an additional unit on the location proposed would result in the loss of a valuable green space, but the principal reason for my conclusion in this regard is the proximity to the noise source, and the quality of residential amenity in consequence.

8. I have considered whether, as the appellant suggests, the need to generate funds to allow for improvements to the Park, should override any of these considerations. I have come to the conclusion that it should not. While the proposed works, insofar as not already under way, may be of considerable importance to current residents, there is nothing in the papers before me to suggest that they may only be brought about if seven additional units are secured. In any event, I agree with the Council that the overriding concern is the amenity of residents and the visual amenity within the site. Conditions 1 to 3 of planning permission 11/00816/DPP are required for such reasons, and accordingly I dismiss the appeal.

9. I have considered all the other matters raised in the written submissions, but find nothing which leads me to a different conclusion. The proposal does not accord with the relevant provisions of the development plan and there are no material considerations to warrant a departure from such provisions.

R F Loughridge
Reporter