



Appeal Decision

Site visit made on 11 July 2016

by Tim Belcher FCII, LLB (Hons), Solicitor (Non Practising)

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

Decision date: 10 October 2016

Appeal Ref: APP/H1840/W/16/3145085

Laurel Park, Main Road, Westmancote, Tewkesbury, GL20 7EN

- 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 Thomas Cooper (the Appellant) against the decision of Wychavon District Council (the Council).
 - The application Ref W/15/01763/PN, dated 2 July 2015, was refused by notice dated 9 October 2015.
 - The development proposed is the removal of two mobile homes and replacement with permanent dwelling.
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Decision

1. The appeal is dismissed.

Definitions

2. In my Appeal Decision I will refer to:
 - a) The land to which the appeal relates as "the Appeal Site".
 - b) The proposed development as "the Proposal".
 - c) Gypsies and travellers as "Travellers".

Procedural Matters

3. Since the planning application was determined the Council have adopted the South Worcestershire Development Plan (the SWDP). The saved policies of the Wychavon District Local Plan have now been superseded.
4. The Council confirmed that no contribution is required in relation to off-site affordable housing in relation to the Proposal.
5. The Appellant has indicated that the proposed dwelling could be re-designed and/or reduced in size. I have to determine the application in accordance with the application plans before the Council. If the Appellant wishes to have another scheme determined then a further application would need to be submitted to the Council.
6. In May 2006 conditional planning permission (the 2006 Planning Permission) was granted on appeal to use the Appeal Site as a gypsy caravan site incorporating two mobile homes and a touring caravan. The permission was personal to the Appellant. On behalf of the Appellant it is explained that he wants:

- a) To move from his former gypsy life.
- b) A permanent home for his family.
- c) To integrate into the local community.

Policy

7. The Development Plan for the area includes the SWDP. I have also been referred to parts of the National Planning Policy Framework.

Main Issues

8. The main issues are explained under the sub-headings in the "Reasons" section below.

Reasons

Development outside the settlement boundary for Bredon

9. The SWDP explains that the development strategy is based on specified principles set out in Policy SWDP 2. One of those principles is to focus most development in the urban areas where both housing needs and accessibility to lower-cost public services are greatest. Open countryside is defined as land beyond the development boundaries set by the SWDP. The only development that is permitted within the open countryside is listed in paragraph C of Policy SWDP 2.

My Comments

10. For the Policy reasons explained above the Appeal Site is by definition within the open countryside. The Appellant has not sought to argue that the Proposal falls within paragraph C of Policy SWDP 2. Accordingly, there is an in-principle objection to the Proposal due to the countryside location of the Appeal Site. Accordingly, the Proposal is contrary to the relevant part of the Development Plan.
11. The Council have demonstrated a robust five year housing land supply and I agree that there is, at the present time, no need for housing sites that fall outside the settlement boundaries defined in the SWDP.

The Visual Impact of the Proposal

12. The SWDP explains that all development must demonstrate, amongst other things, that they are appropriate to, and integrate with, the character of the landscape setting.

My Comments

13. Access to the Appeal Site is via a metalled surfaced public footpath ("the Public Footpath") that links the Appeal Site and other land and premises to Kemerton Road. Adjacent to the Public Footpath is the development boundary for part of the built up area of Bredon. This built up area comprises residential development primarily accessed off Queensmead.
14. The Public Footpath creates a clear and defined boundary between Bredon and the open countryside beyond. When walking down the Public Footpath (from Kemerton Road towards the Appeal Site) the visual impression is that of being

within the open countryside with fields and woodland adjoining the Public Footpath on the opposite side to the built up area of Bredon. The built up area of Bredon is largely screened by vegetation along the boundary of the Public Footpath.

15. The Appeal Site is completely at odds with its countryside setting. There is an ornate brick and railing front boundary wall with metal gates and lamps on top of brick piers (at the gateway). Within the Appeal Site are:
 - a) Block paved driveway with hard-surfacing beyond.
 - b) Grassed areas for play and amenity.
 - c) Parked cars, trailers, and shipping containers.
 - d) Two large mobile homes and a touring caravan. The mobile homes look like conventional bungalows.
 - e) A brick built day room.
 - f) A hot tub.
 - g) A brick built shed and a wooden shed.
 - h) Kennels.
 - i) Garden furniture including tables and chairs.
16. The Appeal Site is, with the exception of the shipping containers, wholly residential in character and appearance.
17. Adjacent to the southern boundary of the Appeal Site are the extensive glasshouses of the agricultural nursery known as Merediths.
18. In my opinion the Proposal would result, like the existing caravan site, in isolated development away from the built up area of Bredon. I accept that there is access to all the services and facilities that the residents of Queensmead have and to that extent there would be no harm caused by lack of accessibility to those services and facilities.
19. I do not share that Council's concern as to visual harm being caused by the Proposal. You have to compare what is lawfully on the Appeal Site and what is proposed. I accept that the Proposal is a large two-storey dwelling house and garage block. Its size would reflect its function in that it has been designed to accommodate the Appellant and his extended family and will replace much of the residential development that is currently on the Appeal Site.
20. Having regard to the visual impact of the existing lawful development on the Appeal Site I conclude that the Proposal would not result in any additional material harm to the character or appearance of the area. Accordingly, there would be no conflict with the relevant parts of the SWDP.

Loss of private gypsy caravan sites

21. The SWDP explains that the Council will identify and update annually a five year supply of deliverable pitches for Travellers in order to meet local targets.

My Comments

22. The Council have explained in their evidence that there is currently an undersupply of 13 pitches in their administrative area. They are concerned that planning permission for the Proposal would result in the loss of two pitches. Those pitches would be available to other Travellers subject to:
- a) The Appellant and the other occupiers of the Appeal Site moving off the Appeal Site.
 - b) The agreement of the Appellant to allow other Travellers to occupy those pitches.
 - c) Condition 9 of the 2006 Planning Permission being discharged.
23. The Council's position regarding the discharge of the personal condition attached to the 2006 Planning Permission is that it is difficult to see on what basis an application to discharge the condition would not be acceptable.
24. The Appellant states in his Final Comments that two pitches would still remain at the Appeal Site. However, the application plan¹ indicates that the existing mobile homes are to be removed and the current positions occupied by those mobile homes would be replaced by the proposed house and landscaped gardens. The plan² submitted with the Final Comments was not the application plan. It shows the proposed house in an entirely different position to that shown on the application plan. I am not willing to accept the plan submitted at the Final Comments stage as it would be wrong for me to proceed on that basis when the public consultation was on an entirely different foundation. No doubt the Appellant could apply again to the Council if he wanted another proposal to be considered.
25. The Council also consider that the Appeal Site could accommodate a further three pitches to assist in meeting the need for pitches for Travellers. The Council assert that the Appellant put forward the Appeal Site for further pitches. In the Appellant's Final Comments it is stated that this is "totally untrue".
26. In my experience it is difficult for Travellers to find suitable sites within settlement boundaries and thus they often seek to live, as the Appellant has done, close to the edge of settlements. I consider that the Proposal would result in the loss of pitches (both existing or potential additional pitches). In my assessment it is important to safeguard these pitches for the community of Travellers. It is obvious that there are other houses both within and outside settlement boundaries which are available for occupation by the Appellant and others living on the Appeal Site.

Overall Conclusions

27. I have explained above that I consider that no material harm to the character or appearance of the Appeal Site or the surrounding area would result from the Proposal. However, this matter is outweighed by the harm that results from:
- a) The failure to comply with the SWDP relating to the countryside location of the Proposal.

¹ Drawing No. PD980.01

² Layout 1a dated February 2016

- b) The loss of two pitches that should remain available for the community of Travellers.
- c) The potential loss of three further pitches for Travellers in the event that the Appellant and the Council agree to an expansion of the number of pitches at the Appeal Site.

28. I therefore conclude that:

- a) The Proposal fails to accord with the Development Plan.
- b) There are no material considerations which warrant a decision other than in accordance with the Development Plan.
- c) The Appeal should not succeed.

Tim Belcher

Inspector.