

Appeal Decision

Hearing held on 18 October 2016

Site visit made on 18 October 2016

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 03 February 2017

Appeal Ref: APP/R3705/W/16/3150813

Fir Tree Paddock, Quarry Lane, Mancetter, Warwickshire CV9 2RD

- 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 Timothy Gough against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2015/0611, dated 23 September 2015, was refused by notice dated 8 December 2015.
 - The development proposed is the replacement of existing buildings to utility/day room to serve existing gypsy pitch approved in Appeal Decision APP/R3705/A/08/2066891.
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Decision

1. I dismiss the appeal.

Application for Costs

2. At the Hearing an application for costs was made by Mr Timothy Gough against North Warwickshire Borough Council. This application is the subject of a separate Decision.

Main Issues

3. These are;
 - The effect of the proposal on the character and appearance of the area.
 - Whether the proposal is sustainable development and should benefit from the presumption stated in the National Planning Policy Framework.

Reasons

Background

4. Permission for *'the change of use of land to a residential gypsy caravan site for one gypsy/traveller family including the stationing of a caravan'* was granted on Appeal on 30 June 2008 (Ref; APP/R3705/A/08/2066891). The Inspector found that there were no Development Plan policies specific to gypsy site provision at that time, that the location was suitable and sustainable and that the impact on the surrounding countryside would be minimal. In addition the Inspector found an unmet need with the likelihood of sites being identified being some way in the future, and the permission granted was neither temporary nor personal, only being restricted to gypsies and travellers. There is however no mention of a dayroom, as none was requested as part of the
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application, and no mention of any other structures on the site, although it appears likely, as will be explored further in the current Decision, that the structures now proposed to be replaced were in place at that time.

5. The policy situation has changed since that previous Decision, with the adoption of the Core Strategy in October 2014. Policy NW1 on sustainable development makes clear the relationship with the National Planning Policy Framework as a material consideration and states the presumption in favour of sustainable development. Policy NW2 sets out the settlement hierarchy and the site falls within '*Category 5 – Outside of the Above Settlements*' where unless other policies expressly provide, development will be limited to that necessary for agriculture, forestry or other uses that can be shown to require a rural location. Gypsy and traveller sites are the subject of Policy NW8 which sets criteria for their location, size, access to services and the effect on the surroundings. Policy NW13 seeks the protection and enhancement of the quality, character, diversity and local distinctiveness of the natural environment.
6. The Council and appellant do not consider any of the saved policies of the 2006 Local Plan relevant, and having mind to the findings of the previous Inspector, and the content of the Core Strategy policies cited, that appears to be so. The Council is working on a new Local Plan which does not seek to change the settlement hierarchy of Policy NW2. It was also explained at the Hearing that the Mancetter Neighbourhood Plan is well advanced, maintaining the same settlement boundary, and is presently with the Council prior to the referendum being held.

Character and Appearance

7. Whilst it is the case that '*Designing Gypsy and Traveller Sites; Good Practice Guide*' which contained advice on the design of dayrooms has been revoked, and that neither the Development Plan nor the Planning Policy for Traveller Sites makes reference to dayrooms, their provision is quite usual on gypsy sites, often for cultural reasons to do with men not using the washing and sanitary facilities in the caravan, and to provide for some secure storage external to the home. It is also the case that the recently granted permission next door to the appeal site includes a dayroom, in that case of approximately 40m² shared between the two pitches (Ref; PAP/2015/0607) and which building appeared substantially complete at the time of the site inspection. The Council made clear at the Hearing that there is no in-principle objection to a dayroom at the appeal site.
8. As set out in Planning Policy for Traveller Sites and in the Development Plan policies, a gypsy site in the countryside can be permissible, and the grant of permission for the use of this land in 2008 was in line with the then guidance in Circular 01/2006. However, that provision is not a reason to permit any number or any size of ancillary buildings such as dayrooms. In this case, where a previous Inspector found only minimal impact on the surrounding countryside through the stationing of the caravan and the use of the land, there is nothing in that previous Decision to indicate that the Inspector was addressing any more than a single caravan. The resulting permission has conditions attached limiting the residential use to only a single caravan with no touring van being referred to, and no commercial activities are to be carried out.

9. The proposed building is large at over 70m², and would contain the expected washing, clothes washing and sanitary facilities, along with some space for daytime use and storage, but the latter two areas appear significantly out-of-scale with the accommodation on the site of a single caravan. The Council liken it to a stand-alone dwelling in the reason for refusal. The use of those terms will be considered in the accompanying Costs Decision, but whilst express permission would be needed to put the building to such a use, and the Council even suggested a condition to that end, the appearance of the building being similar to a separate dwelling is pertinent, along with its size, when considering the effect on the character and appearance of the area.
10. Quarry Lane runs east-west and roughly parallel with the Coventry Canal to the north. Whilst the land to the south of the lane is clearly agricultural in character and use, and includes a newly constructed and sizeable dwelling built under the provisions for agricultural workers, the land between the lane and the canal appears a varied collection of what the Council describe as 'leisure agriculture' and some canal-based enterprises. The Council refer to pressure to permit permanent residential use of canal moorings, but have accepted the residential gypsy and traveller use of the adjoining land to the east of the appeal site. Further east there is the framework of an agricultural barn before the lane stops at gates to private land.
11. This stretch of land between the lane and the canal appears vulnerable to piecemeal change away from an open, truly agricultural, character and appearance, with high gates beginning to be erected, and is a stretch of land that is highly visible to users of the public right of way that runs along the lane before turning south towards higher ground only a little way short of the appeal site. The caravan on the appeal site, with the dayroom now erected on the adjoining site, and allowing for the siting of the proposed caravans and landscaping as pointed out at the site inspection, would maintain open space and a rural appearance to the lane.
12. The erection as proposed of a large, domestic style of building would be at odds with that rural appearance and the siting would intrude into the view from the lane and from the public right of way, introducing the appearance of a residential frontage, and not relating well in its location with the already erected day room next door which is set back from the lane. Notwithstanding the intended use and the control exercisable through the planning regime, the building would appear akin to a bungalow and as such would not sit acceptably within the rural character and appearance of the area. The proposal would be contrary to Core Strategy Policy NW13 on the protection of the countryside and would introduce a level of harm that Policies NW2 and NW8 seek to avoid through a settlement hierarchy and the criteria based gypsy and traveller policy.
13. There are two possible areas of justification that were discussed at the Hearing, the first being the existence of structures in a similar position and of a similar height and footprint that would be replaced. These consist of a corrugated metal-clad shed, linked to a former shipping container, this latter being placed parallel with and close to the lane, and a former lorry body that is accessible separately. The three structures appear to have been in place for some considerable time, the appellant stating in excess of 25 years, notwithstanding the lack of reference to them in the 2008 Appeal Decision. The shed is clearly a building constructed *in-situ* and is used for the storage of tools in connection

with the appellant's business activities, some household goods including a motorbike, and it also contains the electric generator and fuel. The other two structures appear to have been brought to the site and placed on the land.

14. Their use is clearly permanent, they are not now capable of being readily removed in one piece due to their deteriorated condition, and whilst not connected to services in that there are no mains services on the site, the access arrangements have been adapted to be used along with the shed. On the information available it is concluded that they should be considered as buildings, although their lawfulness remains a matter to be tested by separate application. Their existence in the landscape, their poor condition and the intention to replace them with a modern purpose-built structure is of weight in this Decision.
15. However, whatever their permanence and status in planning terms, the appearance of the shipping container and the lorry body is of temporary structures more akin to vehicles parked on the land when seen from the lane. It is noted that the 2008 permission did not limit the number of commercial vehicles that may be parked on the land in any event. The shed does have a more permanent character and appearance but very much as an ancillary building, sharing much of its characteristics with agricultural buildings commonly seen in the countryside. The proposed replacement, as previously stated, would be a significant and harmful departure from that appearance. As a result, limited weight can be attached to the fact of this being a replacement of a similar height and floor area.
16. Secondly, it is claimed that the proposed amount of accommodation is required for Mr Gough's storage, but the original grant of permission in 2008 was not restricted to a particular person, and hence not necessarily the appellant in this case. The dayroom would not be similarly restricted if permitted. As a result, and as discussed at the Hearing, limited weight can be attached to the needs of the appellant in relation to the significant weight attached to harm to the countryside character and appearance.

Sustainable Development

17. The previous Inspector found the site to be in a sustainable location, in the context of a gypsy site. Sustainable development is more than just accessibility to services and the like and paragraph 6 of the Framework states that the policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system, and that includes the protection of the countryside in one of the core planning principles.
18. The three dimensions of such development are set out at paragraph 7. With regard to the economic role, the occupiers of the site would be in a location to take advantage of work opportunities, although much would be expected to be gained as a result of a nomadic lifestyle with the site as a base from which to travel. Some storage for tools would be expected, but no more than might be accommodated in, say, a 40m² dayroom. The social role is already being furthered in the provision of gypsy and traveller accommodation on the site and next door, and there is limited evidence of the proposed dayroom being essential to this continuing. The environmental role would not be well served at all due to the failings identified in the first main issue.

19. The appellant refers to the presumption in favour of sustainable development stated in paragraph 14 of the Framework. However, the proposal has been found to be contrary to the Development Plan, so that the first bullet point under 'decision-taking' does not apply. The Development Plan is up-to-date, as it post-dates the publication of the Framework, making reference to that statement of Government planning policy, and emerging policy does not intend altering the basis of the settlement hierarchy; the site would remain outside any development boundary.
20. For the avoidance of doubt, the Council confirmed at the Hearing that they are able to demonstrate an 11 year supply of gypsy and traveller sites as required in paragraph 10 of Planning Policy for Traveller Sites, and in excess of 7 years supply of general housing sites as sought in paragraph 47 of the Framework. On any reasonable measure, the Development Plan cannot be considered out-of-date so that the second bullet point in paragraph 14 does not apply either.
21. In conclusion on this issue, the proposal cannot take advantage of the presumption in favour of sustainable development, set out in paragraph 14, and it performs badly with regard to the three dimensions of sustainable development and the policies of the Framework which constitute the Government's view of what constitutes such development. It does not therefore accord with Policy NW1 of the Core Strategy. With regard to the Human Rights Act, although there would be an interference with home life, Article 8 is not engaged owing to the nature of the proposal. Due regard has been had to protected characteristics, but that as there is scope for a smaller building the Public Sector Equality Duty would not be breached.

Conclusions

22. The proposed development would cause harm to the character and appearance of the countryside contrary to Core Strategy Policy NW13, and should not be regarded as sustainable development in line with Policy NW1, notwithstanding the previously accepted accessibility and suitability of the site for gypsy and traveller use. The harm caused through the domestic appearance, size and location of the proposed building would significantly outweigh the benefits, and only limited weight can be accorded the particular stated needs of the appellant in what is an unrestricted use of the land. Other material considerations therefore do not indicate that the proposal should be decided other than in accordance with the Development Plan. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

S Wilkinson	Principal Planning Officer North Warwickshire Borough Council
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FOR THE APPELLANT:

I Leighton BA BArch RIBA	Senior Architect Green Planning Studio
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T Gough	Appellant
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INTERESTED PERSON:

E Higgins	Assistant Clerk Mancetter Parish Council
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DOCUMENTS

Document	1	Professional details I Leighton submitted by appellant
Document	2	Statement of Common Ground signed and submitted jointly
Document	3	Costs Application submitted by appellant