

Appeal Decision

Hearing held on 9 November 2016

Site visit made on 9 November 2016

by Sarah Colebourne MA, MRTPI

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

Decision date: 5th April 2017

Appeal Ref: APP/B3030/W/16/3152355

Newark Road, Wellow, Nottinghamshire, NG22 0EH

- 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 William Calladine against the decision of Newark and Sherwood District Council.
 - The application Ref 15/00457/FUL, dated 15 March 2015, was refused by notice dated 12 February 2016.
 - The development proposed is described as a traveller site including short term transit pitches and utility block.
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Decision

1. The appeal is allowed and planning permission is granted for a traveller site to include eight gypsy and traveller pitches including six short term transit pitches, a utility block, a play area, an access road and hardstanding areas at Newark Road, Wellow, Nottinghamshire, NG22 0EH in accordance with the terms of the application, Ref 15/00457/FUL, dated 15 March 2015, subject to the conditions attached to the schedule at the end of this decision.

Procedural matters

2. The appellant submitted landscaping proposals during the appeal process which were not considered by the Council when it made its decision. However, as those plans simply provide more detail, they do not prejudice the interests of any of the parties and I have considered the appeal on this basis.
3. It is clear from the plans and application details that the proposed development includes eight gypsy and traveller pitches including six short term transit pitches, a utility block, a play area, an access road and hardstanding areas. For clarity, I have included those elements of the proposal in the formal decision.

Main Issues

4. The main issues in this case are:-
 - the effect of the proposed development on the character and appearance of the surrounding area, including the Wellow Conservation Area and other heritage assets;
 - whether the proposal would dominate the nearest settled community;
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- if any harm arises, whether it is outweighed by any other material considerations, including any identified need for sites for gypsies and travellers in the area, the alternatives for the appellant and any personal circumstances.

Reasons

Background

5. The appeal site is located adjacent to an existing, authorised gypsy and traveller site which has been occupied by the appellant and his extended family for the last seven years. The proposed development is for eight pitches, of which six would be transit pitches and two would be for his two sons who are both in their twenties. The Council has not disputed the gypsy status of the intended permanent occupants and I have no reason from the evidence provided to disagree with that. The appellant was initially approached by the Council with a view towards submitting an application and the application was refused contrary to officer recommendation.

National planning policy

6. Government guidance referred to by the parties includes the National Planning Policy Framework ("the Framework") and Planning Policy for Traveller Sites (PPTS). The Framework sets out the three dimensions of sustainable development. These are economic, social and environmental. Paragraph 8 of the Framework states that the three sustainability roles should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. Paragraph 14 sets out a presumption in favour of sustainable development which means approving proposals that accord with the development plan and where the plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole, unless specific policies in the Framework such as those relating to heritage assets, indicate that development should be restricted.

Character and appearance and heritage assets

7. The development plan includes the Newark and Sherwood Core Strategy (CS) (2011) in which the appeal site lies outside any settlement boundaries. Spatial policy 3 seeks to ensure that proposals provide support for rural services and protect the countryside and permits only uses that require a rural setting. Policy DM8 in the Council's Allocations and Development Management Development Plan Document (DPD) (2013) defines the types of development that may be permitted in the countryside. It does not include gypsy and traveller sites. PPTS seeks to facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community. It seeks to ensure that sites are sustainable and whilst it says that sites in open countryside away from existing settlements or outside areas allocated in the development plan should be very strictly limited, it does not exclude all sites outside settlements, as the Council acknowledged at the hearing. It is clear then that the local policies referred to above do not accord with national policy and are out of date and should carry limited weight in this appeal. Since the hearing, I have been told that the Council's 'Preferred Approach Sites and

Settlements' consultation document (January 2017), which forms part of the CS Review, includes a policy to assess the suitability of sites. As the CS Review is at an early stage and the Council does not anticipate that it will be examined until late 2017 I have given that emerging policy very limited weight.

8. In considering proposals for planning permission, the duty imposed by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 132 of the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. It goes on to say that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Core Policies 5 (a criteria-based policy for gypsy and traveller sites) and 14 and DPD policy DM9 seek, amongst other things, to protect the historic environment and Core Policy 9 aims to ensure that development is appropriate to its context. In this respect those policies accord broadly with the heritage protection objective of national policy and are relevant to this appeal. Importantly, however, the Framework also says that any harm should require clear and convincing justification. This requires that a further balancing test is carried out should any harm be found and policy DM9 accords with the Framework in this regard too.
9. The appeal site lies within the Wellow Conservation Area (CA), designated in 1978 and last reviewed in 1993. The historic and architectural significance of the CA derives from its medieval origins. The CA boundary covers a wide area, extending beyond the historic core of the village. The appeal site lies on the edge of the CA outside the historic core. The appellant's very detailed heritage statement considers that the site has no special architectural or historic interests to relate it to the CA. The Council considers that the site is in a prominent location and serves as a green gateway into the village, forming an important part of its setting.
10. At my visit I saw that the site is broadly triangular and sits between a disused railway embankment and two roads adjacent to a wide, busy junction. The site itself is unremarkable and appears as a field bounded mostly by mature trees and shrubs. The CA also includes the following areas of land which are close to the appeal site. Opposite the site to the east is the Wellow Dam and Wellow Green which form historic common land with an attractive, open setting. It is screened from the appeal site by a high roadside hedge. The land opposite the site to the south west has historic associations with the Rufford estate and includes Chailey House, a grade II listed building which is set back and only glimpsed from the road (the Council raises no objection in terms of the setting of the listed building and for the reasons given below I would agree) and a pair of prominently sited inter-war semi-detached houses on the corner opposite the junction. The grounds of Wellow House School also extend to the junction. The latter two areas are characterised by a rather more formal landscape setting than the informal planting around the appeal site. Consequently and as the appeal site slopes down away from the junction and is well screened from those areas either by trees and hedges within the site or within the other areas, it feels visually detached from them. Rather than the railway embankment marking the change between the village and the land beyond to the north as the Council contends, it is the junction that marks that change. The presence of the houses on the corner, the wide junction, highway signs,

tall street lighting and the railway bridge beyond the site over Newark Road reflect a more recent era of development in contrast to the medieval origins of other parts of the CA. For these reasons, the site makes no contribution to the historic or architectural significance of the CA.

11. The Council considers that harm would arise from a departure from the existing physical characteristics of the site and from the proposed access, lamp posts, roofs to amenity blocks, hardstanding and the stationing of caravans but it maintains that the harm would be less than substantial. The Parish Council considers that the harm would be of a greater magnitude.
12. Whilst some views of the site are possible from the A616 through small gaps in the otherwise heavily planted boundary, this is a busy main road elevated above the site. Any views would be from cars passing at some speed or from the footway looking down into the site and it would not be unduly prominent from there. The site is partially screened by existing planting set back behind a deep grass verge along its frontage onto Newark Road but there are wide gaps in the planting through which the site can be seen clearly.
13. The appellant's comprehensive landscaping proposals show that although some trees would be removed from the centre of the site and around the proposed new access, the most significant trees would remain and there would be a significant amount of new, native extra heavy standard tree or hedge planting along the frontage, within the grassed play area which extends from the centre to the front of the site and between the pitches.
14. PPTS does not require that sites are completely screened from view but instead seeks to ensure that they have adequate landscaping that rather than isolating them, increases their openness. Although the new planting would take some time to become fully established, there is sufficient existing planting to filter views into the site without it appearing overly dominant in the short term and the site would retain a green, leafy appearance in its centre and along its boundaries. As the new access would replace an existing access the impact from this would be very limited. The scheme does not propose any lighting. Any future lighting would be seen in the context of the surrounding highways lighting and could be controlled by condition. Hardsurfacing areas have been kept to a minimum to allow vehicular access and would not be unduly dominant given the extent of soft landscaping. The amenity block is sited in the furthest corner of the site from Newark Road and its appearance could also be controlled by condition. Caravans are lower in height than most dwellings and the siting of all but one of the pitches away from the Newark Road frontage would reduce their impact to an acceptable degree.
15. I was also told at the hearing that the site is also in the vicinity of Wellow Park, a large unregistered park and garden outside the CA some distance to the north east of the site and to Rufford Abbey Country Park, a large registered park and garden to the south west whose main entrance is some distance away. I am satisfied that given the distance of the site from the main interest of those areas, the proposed development would not harm their significance.
16. The site also lies within a wider landscape of moderate sensitivity as defined in the Council's Landscape Character Development Plan Document, adopted in 2013. The Council has not sought to claim that this gives it any additional protection. There are several gypsy and traveller sites in the area to the north of the appeal site which are outside the Conservation Area. The proposed

development would therefore be absorbed within the wider landscape character of an area of traveller sites in landscaped settings between two settlements. Thus any views from Wellow Park would be at some distance and would not be clearly perceived.

17. I have noted that the Council's Archaeologist's response referred to an interesting radial field pattern in the area which includes the site although I saw no evidence of any remaining field boundaries on the site. The proposal would have a very low impact in terms of any below ground archaeology which could, in any case, be suitably protected by means of a condition if the appeal is allowed.
18. I conclude then that whilst there would undoubtedly be a change to the character and appearance of the site from an unused field to a developed area of caravans, hardstandings and a utility building, as I have found that the site makes no contribution to the significance of the CA and given the carefully considered landscaping proposals, the site levels and the siting and low height of the caravans, the proposed development would not harm the significance of the CA or the other heritage assets or the character and appearance of the wider area. Having regard to the statutory duty, the character and appearance of the CA would be preserved. The proposal would, therefore, accord with Core Policies 5, 9 and 14 and DPD policy DM9. As I have concluded that there would be no harm in heritage terms, there is no need for me to carry out a further balancing exercise in relation to this matter.

Effect on the settled community

19. PPTS seeks to ensure that traveller sites do not dominate the nearest settled community. It also seeks to promote peaceful and integrated co-existence between sites and local communities. The Council's Core Policy 9 accords with this insofar as it seeks to ensure that new development contributes to a compatible mix of uses. There are a number of other gypsy and traveller sites in the area which I saw during my visit. These amount to between 36 pitches (according to the appellant) and 43 pitches according to the Council and the Parish Council. I was told by the Parish Council that with the eight proposed pitches this would equate to one pitch to every four dwellings in the village. Whilst the figure may be higher than the national average, this clearly reflects a historic preference for the area and this ratio does not strike me as one of dominance given that the gypsy and traveller population would still be significantly outnumbered by the settled population.
20. Furthermore, given that some of those sites are closer to the edge of Broughton than they are to Wellow and that nearby Ollerton and Broughton offer a wider range of services and facilities than Wellow, it is likely that the demand for services and facilities would be spread between the three settlements. Although local residents and the Parish Council have referred to the strain on education, health and other facilities, I have insufficient compelling evidence that the proposal would significantly worsen this and consider it unlikely given the relatively small scale of the development and as most of the occupants would be there for a temporary period only. I have been told that relations between the two communities are good and see no reason why this should not continue. I conclude, therefore, that in this respect, the proposed development would not have a harmful effect on the settled community and would comply with Core Policy 9 and PPTS.

Other matters

21. PPTS seeks to ensure that sites provide access to school and health and other services and reduce the need for long-distance travelling. Core Policy 5 has a similar requirement and accords with PPTS in this respect. The appeal site is some 200m from Wellow village and 450m to the south of Broughton with the urban boundary of Ollerton some 450m to the west which provide a good range of services and facilities. A footway on the opposite side of the road provides a safe walking route between the site and Wellow and Broughton and the Council's officer report identifies that there is public transport to a town centre and other facilities. Therefore the site's location would enable access to school and health services and would reduce the need for long-distance travelling through the provision of six transit pitches. The appeal site is, therefore, in a sustainable location and in this regard the proposal would accord with Core Policy 5 and PPTS.
22. Natural England have confirmed that the Wellow Park SSSI some 400m away does not represent a constraint in determining the proposal. There are local wildlife sites in the area and the site is also centrally located within the ppSPA for nightjar and woodlark. Natural England raised no objection to the proposal and the Nottinghamshire Wildlife Trust was generally satisfied with the appellant's Extended Phase 1 Survey and recommended a number of conditions or mitigation measures, some of which have been incorporated in the appellant's landscaping proposals and are necessary in the interests of protected species or biodiversity. Despite the Parish Council's anecdotal reference to great crested newts and emails from the Forestry Commission and Jonathan Roe regarding wildlife sightings and past survey data at Ollerton Pit Wood, Wellow Park and Wellow Dam, I have insufficient information regarding the role of those sources or their level of expertise. I therefore have no compelling evidence that would lead me to conclude that the proposal would cause any harm in respect of the wildlife identified and am satisfied that it would not result in adverse impacts on protected species or biodiversity.
23. PPTS also seeks to ensure that traveller sites are economically and socially sustainable. The proposal would provide some economic contribution to the area from the proposed transit pitches. The appellant and his family's seven year occupancy of the adjacent site indicates that they are already integrated into the community and are capable of managing a well-run site. The proposal would, therefore, fulfil the socially and economically sustainable aspects of national policy.
24. PPTS identifies a national need for traveller sites and seeks to ensure that local planning authorities develop strategies to meet the need for sites in appropriate locations, to address under provision and maintain an appropriate level of supply (including a five year supply) of sites. I have not been referred to a specific need for transit pitches but despite the appellant's concerns regarding the methodology and findings of the Council's Gypsy and Traveller Accommodation Assessment (GTAA) 2016, which will in any case be tested as part of the forthcoming CS Review, both parties agreed at the hearing that the Council does not have a five year supply and that there is a need for at least 20 pitches in the district to 2021. The Parish Council and local residents have disputed the Council's need figure and claim that during the summer there were vacancies on nearby sites. However as travellers often travel during the summer months and the occupiers would be entitled to return at any point, it is

likely that those were not permanent vacancies or available for short term transit pitches. I therefore have no compelling reason to disagree with the parties agreed figure.

25. Since the hearing, I have been told that the Council's 'Preferred Approach Sites and Settlements' consultation document (January 2017), which forms part of the CS Review, includes an assessment of pitch requirement up to 2028 and an approach to addressing need which includes the suggested allocation of a site at Quibells Lane. Given that the CS Review is at an early stage and the Council does not anticipate that it will be examined until late 2017, I have given very limited weight to that document. There have been a substantial number of objections to the Council's preferred approach and to the suggested allocation of that site. It is unlikely that the site, even if it progresses to an adopted allocation, would be available in the near future.
26. Notwithstanding the very limited weight I have given the consultation document and whatever the precise need figures are, the evidence before me suggests a significant and urgent need for pitches in the district and the Council continues to accept that it is not yet in a position to demonstrate a five year supply of pitches. This carries significant weight in favour of the proposal.
27. As I have found that no harm would be caused in terms of the significance of the CA or any other matters, there is no need for me to consider the alternatives for the appellant or any personal circumstances.

Conditions

28. The Council has suggested a number of conditions should the appeal be allowed. I have amended or combined some of those in the interests of brevity and to meet the requirements of the Planning Practice Guidance. In addition to the standard time limit condition, a condition specifying the approved plans and the landscaping proposals is necessary for certainty.
29. Although the appellant and his family's gypsy status is not disputed, a condition to tie the occupation of the land to gypsies and travellers is necessary as six of the pitches would be occupied by others.
30. A condition to restrict the number of permanent pitches, the number of transit pitches and the length of time that the transit pitches can be occupied by the same person/s will ensure that the site meets the specific needs of gypsies and travellers who are in transit. The requirement for an occupancy register will ensure that this condition can be enforced by the Council. Whilst annual submission of that information may make enforcement easier it is not necessary and would not be reasonable. For the same reasons, requiring the site to be clear of caravans for a period would not meet the tests of the Planning Practice Guidance or the needs of gypsies and travellers in transit.
31. To protect the character and appearance of the area, the following conditions are necessary: the limiting of the number of pitches to eight and the number of caravans on each pitch to one; the timing and replacement of landscaping proposals; details of the proposed utility block; the restriction of commercial activities and storage; the restriction of vehicles over 3.5 tonnes.
32. A condition requiring a scheme for archaeological mitigation is necessary as recommended by the Council's Archaeologist in the interests of any potential archaeological interest.

33. Conditions for details of any lighting, a biodiversity leaflet in relation to woodlark and nightjar, for details of nesting boxes and bat roosting boxes, for vegetation removal in relation to birds and for checking of badger setts and Japanese knotweed are necessary in the interests of biodiversity and as recommended by the Nottinghamshire Wildlife Trust.
34. Conditions requiring the provision of the new access and details of its surfacing materials and blocking up of the existing access are necessary in the interests of highway safety.
35. As I have excluded from the plans condition the arboricultural plans because they show a different site layout as discussed at the hearing, I have added a condition for tree protection details.

Conclusion

36. I conclude that as the proposed development accords with the relevant policies of the development plan, it would accord with the development plan as a whole. There are no other material considerations that would indicate otherwise. There is, therefore, no need to consider any human rights implications for the appellant and his family. For the reasons stated above and taking into account all other matters, the appeal should be allowed.

Sarah Colebourne

Inspector

APPEARANCES

FOR THE APPELLANT:

Angus Murdoch	Planning Consultant
Nichola Burley	Heritage Consultant
Rhodri Crandon	Landscape Consultant
William Calladine	Appellant
M Fury	Appellant's family member

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Ellis	Planning Consultant
Oliver Scott	Conservation Officer

INTERESTED PERSONS

Pam Axworthy	Chair, Wellow Parish Council
Carrie Young	Wellow Parish Council
Andrew Young	Wellow Parish Council
Linda Tiff	Wellow Parish Council
G J Nall	Local resident

DOCUMENTS

1. Signed Statement of Common Ground, dated 8/11/16.
2. Appeal decision APP/A3010/W/15/3129847.
3. Photograph taken from Wellow Dam.
4. OS map of Wellow Dam and common land.
5. Emails from Forestry Commission and Jonathan Roe re wildlife sightings and past survey data at Ollerton Pit Wood, Wellow Park and Wellow Dam.
6. Wellow Village Heritage booklet.
7. Emails from Appellant's agent dated 3/3/17, 9/3/17, 23/3/17 and 28/3/17 re transit occupancy condition and 'Preferred Approach Sites and Settlements' consultation document.
8. Emails from Council dated 7/3/17, 23/3/17 and 29/3/17 re transit occupancy condition and 'Preferred Approach Sites and Settlements' consultation document.
9. Emails from Wellow Parish Council dated 8/3/17 re transit occupancy condition and 'Preferred Approach Sites and Settlements' consultation document.

Schedule of conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 410-104-2 (Proposed site layout); TDA.2230.01 (Site layout and detailed landscape proposals).
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of DCLG '*Planning policy for traveller sites*', dated August 2015 or any document that supersedes it.
- 4) There shall be no more than eight pitches on the site and no more than one caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on each pitch at any time.
- 5) The number of transit pitches on the site shall not exceed six and the number of permanent pitches on the site shall not exceed two. On each of those six transit pitches hereby approved no more than one touring caravan per pitch shall be stationed at any time. The occupation of any of the six transit pitches hereby approved shall not be occupied by the same person, group of persons or family for a continuous period of more than three months in any calendar year. Following departure, occupiers of the transit pitches shall not use the site again until at least two months have elapsed. The site owners/managers shall maintain an up-to-date register of the names of all occupiers of the individual transit pitches on the site and the subsequent dates of occupation and shall make that information available upon request to officers of the local planning authority.
- 6) The approved landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted 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 otherwise agreed in writing by the local planning authority.
- 7) No development shall take place until details of the design and materials of the proposed utility block have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No commercial activities shall take place on the land including the storage of materials.
- 9) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 10) No development shall take place within the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 11) Details of any lighting shall be submitted to and approved in writing by the local planning authority before the pitches are occupied and these works shall be carried out as approved.
- 12) No development shall commence until a sample information leaflet outlining the ecological value of the local area and the sensitivities of woodlark and nightjar to dog walking during the breeding season shall be submitted to and approved in writing by the local planning authority. The leaflet shall be produced in consultation with the Nottinghamshire Wildlife Trust. The approved leaflet shall be distributed by

the site owner or manager to any new residents thereafter unless otherwise agreed in writing by the local planning authority.

- 13) Before development is commenced precise details of nesting boxes and bat roosting boxes to be incorporated into the development shall be submitted to and approved by the local planning authority. Once approved the nesting and bat roosting boxes shall be provided before the development is first occupied.
- 14) Any scrub, hedgerow and tree clearance must be undertaken outside the bird breeding season (March to August inclusive) unless the clearance works are conducted with a suitably qualified ecologist on site in accordance with details first submitted to and approved in writing by the local planning authority.
- 15) Immediately before development is commenced, a suitably qualified ecologist shall check for any active badger setts on the site and (if possible) within 30 metres of the site. Should any badger setts be discovered, this should be reported to the local planning authority for further advice before any works are undertaken. Written confirmation from the ecologist appointed, confirming that the check has been undertaken should be kept and should be made available for inspection following a request from the local planning authority. Any trenches should be covered overnight during the working phase.
- 16) Before development is commenced, site workers should be made aware of the potential for Japanese knotweed or other invasive flora species to be found on the site. In the event that any invasive flora species are found during the development phase, works to remove any invasive flora species should cease immediately and an appropriate treatment plan with timescales for removal of the invasive flora species shall be submitted to and approved in writing by the local planning authority. Once approved in writing the invasive flora species shall then be removed in accordance with the approved details.
- 17) No part of the development hereby permitted shall be brought into use until the proposed site access shown on plan 410-104-2 is constructed in accordance with details to be first submitted to, and approved in writing by, the local planning authority. Such details shall include measures to prevent the unregulated discharge of surface water from the private access to the public highway and vice versa.
- 18) No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent and as shown on plan 410-104-2 is permanently closed and the access crossing reinstated as verge in accordance with details to be first submitted to, and approved in writing by, the local planning authority.
- 19) No development related works shall take place on the site (including demolition and clearance) until tree protection details, to include the protection of hedges and shrubs, have been submitted to and approved in writing by the local planning authority. These details shall accord with BS 5837: 2012 and shall indicate exactly how and when the retained trees will be protected during the site works. The development shall be carried out in accordance with the agreed details.

End of conditions.