
Appeal Decision

Site visit made on 13 June 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 23rd June 2017

Appeal Ref: APP/J1860/W/16/3161003
Land nr. Baughton, Worcester, WR8 9DX

- The appeal is made under section 78 (1) (b) of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr G Smith against the decision of Malvern Hills District Council.
 - The application Ref 16/01040/CCO, dated 13 July 2016, sought approval of the details pursuant to conditions Nos 6, 7 and 11 of planning permission Ref APP/J1860/W/15/3005906, granted on 14 April 2016.
 - The application was refused by notice dated 14 October 2016.
 - The development proposed is the temporary change of use of land to 6 No. Traveller Family Pitches and associated works including 6 No. mobile homes, 6 No. touring caravans, 6 No. day rooms, and hardstanding.
 - The details for which approval is sought are: the site development scheme, amenity blocks, and a safe pedestrian access route in case of flooding.
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Decision

1. The appeal is allowed and the details submitted in pursuance of conditions Nos 5 and 9 attached to planning permission Ref APP/J18660/C/14/2223438 and conditions Nos 6, 7 and 11 attached to planning permission Ref APP/J1860/W/15/3005906 are approved.

Background

2. Planning permission was granted on appeal¹ for the change of use of land to 6 No. Traveller Family Pitches and associated works including 6 No. mobile homes, 6 No. touring caravans, 6 No. day rooms, and hardstanding for a temporary period of 5 years. Two associated appeals against enforcement notices relating to works undertaken on the site² and the use of the land³ were also allowed at the same time.
3. These were subject to a number of conditions requiring the submission of further details in relation to; a site development scheme (condition 5 Appeal B and condition 6 Appeal C), a safe pedestrian access route in case of flooding (condition 9 Appeal B and condition 11 Appeal C), and the amenity blocks (condition 7 Appeal C). The application seeking the approval of these details was refused by the Council. Since that refusal revised details and additional information have been provided by the appellant as part of the appeal before me.

¹ Appeal C APP/J1860/W/15/3005906

² Appeal A APP/J1860/C/14/2223436

³ Appeal B APP/J1860/C/14/2223438

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4. These were provided to the Council in letters from the appellant dated 7 November 2016⁴ and 12 June 2017⁵ and have been assessed by the Council. It is on this basis that I have determined the appeal. The site is in part occupied and the use has commenced. However, the development has not been undertaken in accordance with the revised details, and as such I will continue to refer to the details as proposals. This overall background has led to my identification of the main issues below.

Main Issues

5. The main issues in this case are:
- Whether the submitted details with regard to condition 5 of Appeal B and condition 6 of Appeal C, concerning the site development scheme, would safeguard the character and appearance of the site and surrounding area, and residential and visual amenity; and
 - Whether the submitted details with regard to condition 7 of Appeal C, concerning the amenity blocks, would safeguard the character and appearance of the area; and
 - Whether the submitted details with regard to condition 9 of Appeal B and condition 11 of Appeal C would provide a safe pedestrian access route in case of flooding.

Reasons

Site development scheme

6. This condition was imposed in the interests of the character and appearance of the site and surrounding area, and to safeguard residential and visual amenity. Those elements of the submitted scheme found to be unacceptable to the Council are set out on its decision notice and are considered below.
7. With regard to external lighting, on the basis of the originally submitted site layout plan (Drawing 1674/01), the Council considered there to be insufficient information concerning the design of the lighting and the intended lux levels. The amended details show the use of wall mounted coach lights on the dayrooms, mobile homes and fences on all the Pitches, along with recessed downlights on Pitches 2 and 5. Lighting specifications for these have been given. On the basis of the information provided, the Council raises no objections to these details.
8. In terms of the internal layout of the site the originally submitted details show two touring caravans on Pitch 3 and a portacabin on Pitch 6. These were on site at the time of my visit. However, these elements of the proposed internal site layout have since been amended to show only a single tourer on Pitch 3 and the removal of the portacabin on Pitch 6. On this basis the Council raises no objections to the proposal and is content that that the details now comply with condition 4 of Appeal B which limits the number of caravans on a pitch to 2.

⁴ site layout plan drawing number 1674/01A, Pitch 2 dayroom floor plans and elevations drawing number 1674/02A, proposed dayroom plan and elevations drawing number 1429/03, foul drainage plan dated November 2016, amended flood warning and evacuation plan and plan showing pedestrian evacuation route.

⁵ Proposed site layout showing landscaping drawing number 1674/01B

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9. In respect of the means of foul and surface water drainage, the Council refused the originally submitted details on the basis of the proposed septic tanks. These have now been removed and the revised plan shows a foul water package pumping station that would outfall to the existing watercourse via a sampling chamber. The surface water would discharge from the roofs of the dayrooms and mobile homes to the ground and the hardstanding area of permeable surfacing. Severn Trent Water confirms that these arrangements are acceptable and the Council raises no objections to the details.
 10. On the matter of the fencing and means of enclosure, the Council initially objected to the post and rail fence shown on either side of the stone track to the east of the site beyond Pitches 1–6. This has now been removed from the proposed site layout and a key and explanation of the types of enclosures have been provided. These include a mixture of close board fencing around the Pitches and post and rail fences to the wider site boundaries. The Council raises no objections to them.
 11. In terms of tree, hedge and shrub planting the originally submitted details were found to be insufficient since the area of proposed planting was not shown on the site layout plan. The additional submitted drawing number 1674/01B indicates a landscaping scheme and shows a children's play area and outdoor amenity area to the west of the Pitches. Areas of native tree planting, screening to the west of the Pitches and the west boundary of the children's play area and outdoor amenity area are also shown, along with a band of native hedgerow planting to the site's southern boundary adjacent to the main road east of the entrance in a 2 metre high earth bund. The Council raises no objections to these details which also include a planting management strategy.
 12. With regard to the restoration of the site, despite initially seeking a shorter period of 1 month, the Council is now content that the works necessary to restore the site to its original condition should be completed within 3 months from the date of the expiry of the permission (or upon cessation of the site occupation, whichever shall occur first) as suggested by the appellant. On the issue of the timetable for the implementation of the site development scheme, the Council requires all the works necessary to fully implement the site development scheme to be completed within 3 months of the date of the decision to discharge the conditions. Despite initially requesting a period of 12 months, the appellant now agrees to the 3 month period.
 13. Bringing matters together, I have been provided with no evidence that would lead me to disagree with the Council's findings on the revised details submitted in relation to the site development scheme. I concur that a period of 3 months to implement the site development scheme is reasonable, and am also content that the restoration of the site could be adequately achieved within 3 months.
 14. I therefore conclude on this issue that the submitted details with regard to condition 5 of Appeal B and condition 6 of Appeal C, concerning the site development scheme, would safeguard the character and appearance of the site and surrounding area, and residential and visual amenity. No development plan policies are referred to by either party. However, with regard to the National Planning Policy Framework (the Framework) I am satisfied that the details accord with the core planning principles of the Framework which seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
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Amenity blocks

15. Condition 7 of Appeal C requires samples of the materials to be used in the external surfaces of the amenity blocks and full details of their finished floor levels to be agreed prior to their erection. It was imposed in order to safeguard the character and appearance of the area. Initially the Council objected to the lack of floorplans for the dayroom on Pitch 2 and of the elevations or floorplans for the dayrooms on the other Pitches. I appreciate that contrary to the wording of this condition some of the amenity blocks have been already built.
16. The amenity block on Pitch 2 has been constructed in accordance with submitted revised plan (Drawing 1674/02A) and is clad in light brown stained timber with black felt roof tiles. The elevations and floor plans for the dayrooms for the other pitches are shown on drawing number 1429/03 and show red brick buildings with clay tile roofs. The finished floor levels are shown on the amended site layout plan. The Council is now satisfied that on the basis of the details provided the dayrooms are acceptable. I have seen no evidence that would result in me taking a contrary view to the Council on this matter and am satisfied that the dayrooms would appear in keeping with the surrounding area and generally sympathetic to their context.
17. I therefore conclude on this issue that the submitted details with regard to condition 7 of Appeal C, concerning the amenity blocks, would safeguard the character and appearance of the area. This would accord with the core planning principle of the Framework to seek to secure high quality design.

Safe pedestrian access route in case of flooding

18. The Flood Warning and Evacuation Plan has been amended to include site maps and evacuation routes (including a plan showing the pedestrian evacuation route to the west of Pitch 1 on to the main road) along with contact details for the plan coordinator and the Environment Agency Flood Line. The submitted details have now been agreed by the Council's Emergency Planning Officer and the Council raises no objections to them. I have seen no evidence to dispute this stance and am also content that the details are acceptable.
19. I therefore conclude on this issue that the submitted details with regard to condition 9 of Appeal B and condition 11 of Appeal C would provide a safe pedestrian access route in case of flooding. This would accord with the advice at paragraph 103 of the Framework which requires development to be appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning. Although the Council makes reference in its statement to the relevant policies of the South Worcestershire Development Plan (SWDP) I have not been provided with copies of these. However I note the previous Inspector's reference to SWDP Policy 29 which seeks to minimise flood risk and protect water quality.

Conclusion

20. For the reasons set out above, and having regard to all other matters raised, I therefore conclude that the appeal should be allowed.

Elaine Worthington

INSPECTOR