



Appeal Decision

Site visit made on 31 July 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 15 August 2017

Appeal Ref: APP/Y3940/W/17/3169468

Land north of Broken Cross Bridge, Bridge Road, Winterbourne Earls, Salisbury, Wiltshire SP4 6DS

- 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 Lee Johnson against the decision of Wiltshire Council.
 - The application Ref 16/05231/FUL, dated 25 May 2016, was refused by the Council by notice dated 4 October 2016.
 - The development proposed is change of use of land to use as a residential caravan site for one gypsy family.
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Decision

1. I allow the appeal and grant planning permission for change of use of land to use as a residential caravan site for one gypsy family at land north of Broken Cross Bridge, Bridge Road, Winterbourne Earls, Salisbury, Wiltshire SP4 6DS in accordance with the terms of the application, Ref 16/05231/FUL, dated 25 May 2016, subject to conditions 1) to 12) on the attached schedule.

Preliminary Matters

2. There were three strands to the Council's single reason for refusal; highway safety concerns over the access and pedestrian use of the road, a lack of evidence on whether alternative accommodation had been considered, and a failure to provide any information as to how the site could be successfully drained or how foul waste could be disposed of. The proposal was alleged not to comply with all the criteria within Policy 47 of the Wiltshire Core Strategy *'Meeting the Needs of Gypsies and Travellers'*.
3. The Council subsequently informed the Planning Inspectorate by e-mail dated 6 June 2017 that only the matter of drainage remained as an issue between the parties, information having been supplied to address the other strands of the reasons for refusal and to satisfy the relevant criteria in Policy 47. It was on that basis that the Appeal procedure was changed from a Hearing to Written Representations with an accompanied site inspection.
4. The Appellant's draft Statement of Common Ground records agreement on gypsy status, unmet need, a lack of a five year supply of sites, land allocations not being likely to be brought forward before 2019, and that the Council do not allege harm to the character and appearance of the area. Whilst this is not an agreed document, the analysis is concurred with on the basis of the Council's amended case at Appeal and other information supplied.

Main Issue

5. This is whether the drainage of the site and the disposal of foul waste can be successfully and safely designed and carried out.

Reasons

6. Policy 47 contains 9 criteria and the remaining relevant ones are i) no significant barriers to development exist in terms of, among other matters, poor drainage, and iii) the site can be properly serviced and is supplied with essential services, such as water, power, sewerage and drainage, and waste disposal.
7. The Council refer to the advice of their Land Drainage Engineer at Appendix 5 of their Appeal Statement, which provides information on the nature of the geology and other constraints, with possible solutions referred to. It is of note that the advice ends with the statement *'I can't design the solution myself as this would imply a guarantee but if I were to have the drainage details on paper as a report and a drawing detailing how the drainage will be achieved, then I would be holding the supporting evidence and I would therefore remove my objection'*. This is by no means an in-principle objection on the basis of the wording of criteria i and iii of Policy 47. Clearly it is not for the Engineer to design the scheme as that is the job of the appellant and his advisors, but the question is whether this is a suitable matter for a condition attached to a grant of planning permission, as asserted by the appellant.
8. The first constraint referred to by the Engineer is a 150mm diameter pvc water supply main. The location of this was pointed out on the site as was that of a meter-pit and small diameter service pipe to an existing horse trough. The main appears to run close to the rear of a bus shelter that backs onto the site and it is unclear whether the foundations to the proposed amenity block would be in the same area. Nevertheless, the foundations could be designed to avoid damage to the pipe, or there would be sufficient space to move the location of the block away from the road if necessary without causing other harm such as to the character and appearance of the area. That could be the subject of a condition.
9. The Engineer agrees that surface water could be successfully disposed of due to the underlying chalk strata, but subject to proof of a soakaway system being in accordance with BRE Digest 365 *'Soakaway Design'*. That too could be secured by condition.
10. There do appear to be more serious constraints over the design of the foul drainage system and there is no mains drainage provision available to the site. The Environment Agency has designated this area as one having high groundwater vulnerability and the Engineer states that this rules out a small package treatment plant even though the quality of the treated effluent is good. Such a septic tank requires an outflow, usually to a perforated or 'French' drainage system permeating treated liquid into the soil, which could affect groundwater.
11. The Engineer does accept that a sealed cess-pit can be utilised, with no outfall to the area of groundwater, provided it is of sufficient size and is pumped-out as required. There is enough land within the site to be able to locate such a tank underground, and to provide nearby hardstanding for the visiting road

tanker. There may be a need for the tanker to turn on site, if reversing off the highway is not advised, but room exists for this also, which could be permeable or concrete 'grass block' paving to avoid undue visual effects, controlled by condition.

12. The web-based Planning Practice Guidance states at Paragraph: 001 Reference ID: 21a-001-20140306 that when used properly, conditions can enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. On the information that has been supplied and with the benefit of the site inspection, it is concluded that this is a case where permission can be granted provided that robust conditions are attached to avoid adverse effects in respect of drainage. Such precise conditions would be relevant to planning and the development, would be capable of being complied with, and would be enforceable with no development proceeding prior to them being discharged. They are necessary to protect groundwater and would be reasonable in all other respects.
13. It is concluded that conditions can ensure compliance with the remaining criteria i and iii of Policy 47 of the Wiltshire Core Strategy and that there are no other concerns sufficient to prevent the proposal from proceeding.

Conditions

14. The Council suggested conditions that included those related to drainage and these will be amended in accordance with the above reasoning and also to include an implementation clause to the surface water requirement. The conditions concerning access and vehicle parking and turning will be amended to address the possible use of a pump-out tanker.
15. The suggested condition limiting the use of the site to gypsies and travellers is required as this is a site that would not be considered suitable otherwise, but the Council are correct in not seeking to restrict the use to the appellant or for only a limited time, as the site is suitable for permanent, general gypsy and traveller use. It is however necessary to add a condition limiting the number of caravans, as this Decision is based on the effect of one mobile home, and the expectation of only a single touring caravan. Similarly it would be reasonable to attach conditions limiting the size of commercial vehicles and preventing commercial activity and storage. Lastly, a condition is required listing the drawings to which this permission relates, for the avoidance of doubt and in the interests of the proper planning of the area.

Conclusions

16. The site is a suitable location for the proposed use, and it would go some way in providing for the unmet need, and in addressing the lack of supply. With suitable conditions, all criteria of the relevant Development Plan policy, together with the requirements of the National Planning Policy Framework and Planning Policy for Traveller Sites can be met. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 3) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan, Site Layout Plan, Amenity Block Front Elevation, Amenity Block Rear Elevation, Amenity Block End Elevations and Amenity Block Floor Plan.
- 7) No development of the amenity block shall commence until details of the foundation design or other measures to avoid damage to the water main have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.
- 8) The residential occupation of the site hereby approved shall not commence until the whole of the access area between the edge of the carriageway and the existing gate has been consolidated and surfaced (not loose stone or gravel). This area shall be retained as such thereafter.
- 9) Any gates to close the access shall be hung to open inwards (away from the highway) only.
- 10) No development shall commence until full details of the proposed means of foul drainage disposal have been submitted to and approved in writing by the Local Planning Authority. The approved drainage works shall be completed prior to the residential occupation of the site and shall be retained and maintained thereafter.
- 11) No development shall commence until details of surface water drainage, which shall follow the principles of sustainable drainage as far as practicable, have been submitted to and approved in writing by the Local Planning Authority. The approved drainage works shall be completed prior to the residential occupation of the site and shall be retained thereafter.
- 12) No development shall commence until details of a consolidated and surfaced vehicle turning and parking space has been submitted to and approved in writing by the Local Planning Authority. The details shall include provision for a road tanker if required pursuant to Condition 10). The residential occupation of the site hereby approved shall not commence until that turning and parking space has been completed in accordance with the approved details. Such turning and parking space shall be thereafter be retained and kept clear at all times.