
Appeal Decision

Hearing Held on 3 August 2017

Site visits made on 2 and 3 August 2017

by Richard Schofield BA(Hons) MA MRTPI

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

Decision date: 07 September 2017

Appeal Ref: APP/J3720/W/16/3164101

Land north of Mill Lane, Broom, Bidford-on-Avon, Warwickshire B50 4HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Boswell against the decision of Stratford-on-Avon District Council.
 - The application Ref 16/01379/VARY, dated 20 April 2016, was refused by notice dated 26 July 2016.
 - The application sought planning permission for change of use of land to use as a residential caravan site for one gypsy family with two caravans, including no more than one static caravan, together with laying of hardstanding, construction of driveway and amenity building without complying with a condition attached to planning permission Ref 13/01229/FUL, dated 20 May 2013.
 - The condition in dispute is No 3 which states that *'There shall be no more than 1 pitch on the site with no more than two caravans (as defined in the caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) stationed on it at any time of which only one caravan shall be a residential mobile home'*.
 - The reason given for the condition is: *'To limit visual impact'*.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to use as a residential caravan site for one gypsy family with two caravans, including no more than one static caravan, together with laying of hardstanding, construction of driveway and amenity building at Land north of Mill Lane, Broom, Bidford-on-Avon, Warwickshire B50 4HP, in accordance with the application Ref 16/01379/VARY, dated 20 April 2016, without compliance with condition No 3 previously imposed upon planning permission Ref 13/01229/FUL, dated 20 May 2013, and subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by Mr Boswell against Stratford on Avon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. At the hearing the Council confirmed that it was satisfied that, following the discharge of the drainage condition relating to planning permission

13/01229/FUL, it would no longer pursue its reason for refusal in relation to flood risk. There is no evidence before me that would lead me to question this judgment.

4. For the avoidance of doubt, the appellant is seeking to secure two pitches on the appeal site with no more than three caravans thereon.

Main Issues

5. The main issues are whether the disputed condition is necessary in the interests of:
 - accordance with local and national planning policy for the location of gypsy and traveller pitches;
 - the character and appearance of the area; and
 - highway safety.

Reasons

Local and national planning policy

6. The Council's chief concern in relation to the location of the appeal proposal is the likely reliance of future occupiers upon the private car to access services and facilities, Broom being a small village with none of the amenities one might require day-to-day. Nonetheless, the Council's reason for refusal does not allege any conflict with locational policy in the Stratford-on-Avon District Core Strategy (the Core Strategy).
7. Local policy in relation to the situation of gypsy and traveller sites, as opposed to bricks and mortar housing, is clearly set out in policy CS21 of the Core Strategy. This provides a range of criteria against which proposals for such sites are to be judged. The most pertinent criterion in relation to this issue is that which states that:

"The site will be in a sustainable location in reasonable proximity to local services and facilities, including health and emergency services, making them accessible by modes of transport more sustainable than the private car".
8. This chimes with the national Planning Policy for Traveller Sites (PPTS). The PPTS advises that such sites should be strictly limited in the open countryside away from existing areas or outside areas allocated in the development plan. It nonetheless allows for sites to be located in rural areas, provided that they respect the scale of, and do not dominate, the nearest settled community and avoid placing undue pressure on the local infrastructure.
9. The Core Strategy provides no definition of what the "reasonable proximity" referred to in CS21 might be, so one may consider that this is a matter of judgement. In the wider policy context set out above it is notable that the site lies just a short drive from, and within reasonable proximity of, the Main Rural Centre of Bidford-on-Avon, within Broad Location 1 of the Core Strategy's two preferred broad locations for gypsy and traveller site provision.
10. Thus, the appeal proposal would appear to accord with the requirements of both local and national planning policy for the location of gypsy and traveller

sites. Indeed, the appeal site already benefits from planning permission for a gypsy site; a permission that has been implemented. This permission was granted on appeal¹ in September 2014, where the Inspector found that,

*"the proposed site would be in a reasonably accessible location having regard to local services and facilities broadly consistent with national policy"*².

11. Bidford's health centre has since moved further out of Bidford but still remains within reasonably close proximity to the appeal site. Beyond this, there does not appear to have been any significant change in circumstances that would lead me to reach a conclusion that is different from that of my colleague.
12. The Bidford-on-Avon Parish Neighbourhood Plan (the NP) has been made since the appeal was submitted and now forms part of the development plan. My attention was drawn to policy H2 therein, which allows for rural exception sites for affordable housing only beyond the village boundary. The NP does not, however, contain planning policy relating to gypsy and traveller sites. It is reasonable to consider that it defers, therefore, to the Core Strategy in this regard, my findings against which are noted above.
13. I conclude that the appeal proposal is in accordance with local and national planning policy for the location of gypsy and traveller pitches, the requirements of which are noted above.
14. The Council alleges conflict with paragraph 7 of the National Planning Policy Framework (the Framework). This is, however, only an explanation of the three dimensions of sustainable development. It is paragraphs 18 to 219 of the Framework that set the Government's view of what this means in practice. As such, it is difficult to assess where the Council sees conflict arising specifically or how paragraph 7 is directly relevant to the proposal before me.

Character and appearance

15. The appeal site is already developed, following the implementation of planning permission 13/01229/FUL, and the structures on the site are not visible from the public highway. The Council's sole concern in relation to character and appearance was the possibility of increased vehicular use of the driveway. Given that, in character terms, Mill Lane is a relatively quiet rural lane and that an increase in comings and goings to the site could change this character, this concern is not unfounded.
16. In my judgement, however, the potential increase of up to 10 extra vehicle movements a day would be unlikely to result in a fundamental change to Mill Lane's character and appearance. One must also bear in mind the contextual change brought about by the Little Aspley residential development taking place next to the appeal site. Although the access from that site is onto the busier Bidford Road, it would nonetheless place a small housing estate next to the appeal site, with the commensurate comings and goings associated with it. Given these factors I agree with the Council's assessment, made at the hearing, that the impact in character and appearance terms of the expected increase in vehicle movements into and out of the site would be negligible.

¹ 2217712

² Being the PPTS. The Core Strategy had not been adopted at that stage.

17. A previous appeal decision³ whereby a proposal for residential development north of Mill Lane was dismissed partly on the basis of its impact upon character and appearance (albeit of the Broom Conservation Area, which does encompass the site) was referred to by local residents. Nonetheless, it was clear from my site visit, which included walking a short section of public footpath that runs north from Mill Lane, that the appeal site is well contained within the wider landscape. Views of it from this footpath are very limited, due to the mature hedging around the site and the low level nature of the caravan and day room. An additional static caravan on the site, situated where proposed, would have no bearing on the current views from the footpath. In addition, views towards the site from the footpath are now dominated by the dwellings under construction on the Little Aspley site, which draw the eye far more than the structures on the appeal site.
18. The boundary between the site and Vine Cottage is defined by a close boarded fence around two metres high, set in front of a row of mature trees. There may be an increased awareness of the site when the trees are not in leaf, but the addition of an additional static caravan, situated where proposed, would not result in a dramatic change to the character and appearance of the site.
19. I conclude that the appeal proposal would not have an adverse effect on the character and appearance of the area. It would not conflict with Core Strategy polices CS9 and CS21, which seek to ensure that new development, including permanent gypsy sites, does not have a detrimental impact upon the character and appearance of the surrounding area.

Highway safety

20. There is no doubt in my mind that the location of the entrance to the appeal site is far from ideal. The concerns of the highway authority and local residents with regard to highway safety are understandable and entirely reasonable. Nonetheless, beyond the agreement that the appeal proposal could theoretically generate up to an additional 10 daily vehicle movements, there is no technical evidence⁴ before me from either party or from interested parties. This issue is, ultimately, a matter of judgement for the decision maker.
21. It was clear from my site visit that Bidford Road is, if not busy, certainly well-used. Vehicles, chiefly cars, passed regularly during the time that I spent observing the junction on a weekday afternoon, many of them turning into Mill Lane. I also observed vehicles accessing Bidford Road from Mill Lane, although overall Mill Lane appeared to be less intensively used. That said, I note that the swim school at The Grange on Mill Lane was not in operation due to the school summer holidays.
22. My colleague in the previous appeal found that use of the access off Mill Lane would not harm highway safety on Mill Lane or Bidford Road. No substantive information has been provided to me to suggest that anything has changed significantly in that time. Anecdotal evidence was provided of unreported incidents, but without firm details of their cause or frequency it is difficult to ascertain the circumstances in which they arose and whether the site access had any significant bearing upon them.

³ 3137322

⁴ The appellants decided not to submit late evidence from their highway consultant.

23. The appellant proposed a condition limiting occupation of the additional static caravan to Mr David Boswell and Mrs Christine Boswell (Mr and Mrs Boswell senior). Indeed the appellant's case, in relation to highway safety, was predicated on the assumption that the additional caravan would be occupied by them. I have no reason to doubt that they are regular visitors to the site from their current location and, thus, that their being resident on the appeal site would, in real terms, make no substantive difference to vehicle movements to and from it.
24. Much was also made by the appellant of the likelihood of trips from the site being shared by Mr and Mrs Boswell senior and other family members, which was suggested as being common practice among gypsy families. Consequently, I consider that any increase in vehicle movements over and above those at present would be very modest.
25. That said, it was apparent that any vehicle larger than a moderately sized car approaching the site entrance along Mill Lane would have to swing out in order to negotiate what is a tight left turn into the site. This would cause a hazard for any vehicle turning left, unsighted, into Mill Lane. I also consider that having to cross the mouth of Mill Lane, without sight of vehicles approaching along Mill Lane, in order to access the site from Bidford Lane from the south is potentially hazardous.
26. This being so, I would have significant concerns about the implications for highway safety if there were a proposal before me for the single additional caravan without the personal permission limiting its occupation to Mr and Mrs Boswell senior. This condition is, in my view, key to limiting additional trips to and from the appeal site and, therefore, avoiding adverse impacts upon highway safety.
27. This assessment may not directly reflect the views of my colleague but this is, as noted, a matter of judgment. In addition, he was considering a different proposal to that before me, rather than making a definitive judgment about the safety of the junction *per se*.
28. Subject to a restriction on the occupancy of the additional static caravan, I conclude that the appeal proposal would not have an adverse impact upon highway safety. It would not conflict with policy CS26 of the Core Strategy, which seeks, among other things, to ensure that the scale of traffic generated by a proposal is appropriate for the function and standard of the roads serving the area. Nor would it conflict with paragraph 32 of the Framework, which seeks to ensure that new developments provide safe and secure access for all.

Other Matters

29. Allegations were made that the appellant was abusing the planning system by seeking to vary the disputed condition. This is not, however, the case. It is open to anyone with a valid planning permission to seek to have conditions attached to that permission modified or removed. There is no evidence before me to indicate that the appellant has done anything more than follow due process in this regard.
30. Concerns were also raised about the precedent that may be set if I allowed the appeal. Notwithstanding that there is no substantive evidence before me that applications are forthcoming, let me be clear that my findings should not be

taken as authority for the proposition that Broom in general or the appeal site in particular are in principle 'sustainable' locations for additional pitches *ad infinitum*. Any potential future planning applications would need to be assessed on their own merits. Judgements would be based upon matters of fact and degree. Just because I have found that a personal permission is appropriate for the appeal site does not automatically mean that continued incremental growth upon it, or additional pitches in the village, would or should be found to be acceptable.

31. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is clear that special regard should be had to the desirability of preserving the setting of a listed building. The appeal site is situated behind the grounds of the listed Vine Cottage. Nonetheless, there is no obvious physical, visual or historical connection between the appeal site and Vine Cottage. The special interest of the building appeared to derive from its age, history, form and appearance. In my judgment, the elements of setting that contribute to its significance include its relationship with Mill Lane and its immediate plot. This being so, I do not consider that the appeal proposal would have an adverse impact upon the setting of Vine Cottage.
32. My attention was also drawn to 1 Newbold, which it was suggested is also listed. It is, however, some distance from the appeal site, on the opposite side of Mill Lane to Vine Cottage. There is no relationship between the appeal site and 1 Newbold. As such, I do not consider that the appeal proposal would have any bearing at all upon its setting.

Conditions

33. The standard conditions in relation to commencement of development and accordance with submitted plans are necessary for statutory reasons. Occupation should be limited to gypsies and travellers given the specific policy basis for accepting the use. A condition restricting occupation of the additional static caravan to Mr and Mrs Boswell senior is necessary in the interests of highway safety. The condition limiting the number of caravans is necessary to provide certainty. That precluding commercial activity is necessary to protect the living conditions of the occupiers of neighbouring properties.
34. I am also re-imposing the landscaping condition attached to the original permission as it was agreed at the Hearing that it has yet to be discharged.

Conclusion

35. The appeal proposal accords with the development plan when taken as a whole. Thus, for the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be allowed.

Richard Schofield

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted, including the siting of the caravans, shall be carried out in accordance with the details contained within the following plans: Site Location Plan 'Land between Harvest Camp and Vine Cottage, Mill Lane, Broom' Scale 1:1250 and Site Layout Plan at scale 1:500.
- 2) The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1 of the Planning Policy for Traveller Sites (DCLG, 2012).
- 3) There shall be no more than two pitches on the site with no more than three caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) stationed at any time of which only two shall be static caravans.
- 4) The occupation of one of the static caravans hereby permitted shall be carried on only by Mr David Boswell and Mrs Christine Boswell. When the caravan ceases to be occupied by Mr David Boswell and Mrs Christine Boswell that caravan and any works undertaken or structures erected in connection with its use shall be removed from the site.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) Notwithstanding the site layout plan no development shall take place until details of landscaping, of hard surfacing and of the access onto Mill Lane have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The access onto Mill Lane shall be implemented prior to the commencement of the residential use of the site. All planting shall be carried out in accordance with a timetable agreed in writing by the local planning authority. Any trees or plants which die, are removed or become seriously damaged or diseased within 5 years of planting shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

APPEARANCES

FOR THE APPELLANT:

Mr Philip Brown
Mr George Bailes

Philip Brown Associates
TTC Transport Planning

FOR THE LOCAL PLANNING AUTHORITY:

Mr Andrew Watson Dip URP MRTPI
Mr Andy Carter

Stratford on Avon District Council
Stratford on Avon District Council

INTERESTED PERSONS:

Mrs Elisabeth Uggerloe
Mr Joe Harvey
Cllr Mark Cargill
Cllr Daren Pemberland
Mrs Christine Boswell
Mr Ian Buckley
Mr Jonathan Spence
Mr Peter Chadwick

Bidford on Avon Parish Council
Bidford on Avon Parish Council
Stratford on Avon District Council
Stratford on Avon District Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Council's Costs Claim Rebuttal
2. Statement of Common Ground
3. Statement by the Parish Council
4. Statement by Cllr Mark Cargill
5. Bidford on Avon Parish Neighbourhood Plan