



Appeal Decision

Hearings Held on 11 and 25 June 2019

Site visit made on 25 June 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Appeal Ref: APP/R0660/W/19/3223623

Land to the rear of 12 Cemetery Road, Weston CW2 5LQ

- 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 M Stokes against the decision of Cheshire East Council.
 - The application Ref 17/2879N, dated 5 June 2017, was refused by notice dated 4 October 2018.
 - The development proposed is the use of land for the stationing of caravans for residential purposes for one family gypsy pitch together with formation of hardstanding and ancillary utility/dayroom, and the retention of the existing permitted stables.
-

Decision

1. The appeal is allowed and planning permission is granted for the use of land for the stationing of caravans for residential purposes for one family gypsy pitch together with formation of hardstanding and ancillary utility/dayroom, and the retention of the existing permitted stables on land to the rear of 12 Cemetery Road, Weston CW2 5LQ in accordance with the terms of application Ref 17/2879N, dated 5 June 2017, subject to the conditions in the schedule attached to this decision.

Application for Costs

2. At the Hearing an application for costs was made by Mr M Stokes against Cheshire East Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposed development accords with local and national planning policy for the location of such development;
 - Whether suitable access would be provided to the site, with due regard to living conditions and safety;
 - The effect on designated heritage assets; and
 - 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

Planning Policy

4. The development plan for the area consists of the Cheshire East Local Plan Strategy 2017 (CELP), the saved policies of the Crewe and Nantwich Replacement Local Plan 2011 (CNRLP) and the Weston and Basford Neighbourhood Plan which was made in 2017 (NP). The National Planning Policy Framework (the Framework) and the Planning Policy for Traveller Sites (PPTS) are also material to my consideration of this appeal.
5. The Council has consulted on the First Draft Site Allocations and Development Policies Document (Draft DPD) in September and October 2018 with an expectation that it will be adopted in early 2020. A Cheshire Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) was published in 2014, and was updated in support of the draft DPD with a base date of May 2017. The Draft DPD includes site allocations which the Council considers would be sufficient for 5 years provision of pitches from the 2017 base date of the GTAA. However, due to the early stage of preparation of the Draft DPD the Council accepts that very limited weight can be given to the proposed allocations at this time. Therefore, whilst the Draft DPD may indicate the Council's intention to allocate sites, mindful of the status of the Draft DPD it is clear that the Council is unable to demonstrate a 5-year supply of deliverable land for traveller sites.
6. The site is located outside the defined settlement limit of Weston and is considered by the Council to be within the open countryside. Whilst the appellant challenges this due to the nature of the site, Policy PG6 states that open countryside is the area outside defined settlement boundaries. Therefore, for the purposes of the development plan the site is within the open countryside.
7. The site is also located within a Strategic Green Gap as defined by Policy PG5 of the CELP which identifies purposes including preventing coalescence, protecting the setting and identity of settlements, and retaining settlement pattern by maintaining openness. Policies NE4 of the CELP and GG1 of the NP also seek to prevent erosion of the Green Gap, as well as adverse effects on the landscape and the diminishment of visual gaps between settlements, amongst other things.
8. Whilst the site, dayroom and the static and touring caravans would be apparent in some views from the footpath which runs along the site boundary, the existing stable building would shield the static caravan in views from the east and the touring caravan and dayroom would be located on the existing area of hardcore between the stable and the edge of the village. In longer distance views from the north the site would be viewed against the backdrop of the village and would not appear as an undue projection of development into the landscape. Given its immediate surroundings the proposal would sit comfortably within the countryside and in relation to the village and existing built development.
9. The Council emphasises that the extent of the gap between Weston and the A500 is narrow at this point and would be vulnerable to incremental change from minor development. However, even within such a sensitive location, I saw that the proposal would not have a harmful effect on this part of the Green

Gap for the reasons stated previously. Reference has been made to the extent of the appellant's land ownership including the paddock which projects further into the Green Gap. However, the use of this land will be subject to planning control, and the use of the stables and land within the appeal site can be controlled by condition.

10. Reference has been made to the limited services in the village and I saw that the village shop had recently closed. However, facilities in Crewe are a relatively short distance away and the number and length of journeys associated with a single pitch would be limited. Residents of the proposal would therefore have good and relatively sustainable access to services in the wider area.
11. Even having regard to the sensitivity of this area of countryside and its designation as a Green Gap, I do not consider that the development would lead to harm to the character and appearance of the village or the countryside around it. Moreover, the proposal would not materially compromise or undermine the purposes of the Green Gap, for example, in maintaining the separation between settlements and preventing settlements from merging.
12. The proposal would therefore not conflict with Policies PG5 and PG6 of the CELP, NE4 of the CNRLP and GG1 of the NP with regards to the protection of the countryside and the Green Gap. The proposal would also not conflict with the PPTS which accepts that gypsy and traveller sites can be located in rural or semi-rural settings. The proposal would also not conflict with the Framework in respect of protecting and enhancing the natural and built environment. The Council also accepts that there is a need for gypsy and traveller accommodation and that it cannot demonstrate an appropriate supply of sites. Drawing these matters together, I conclude that the proposal accords with local and national planning policy for the location of this form of development.

Access

13. Access to the site is via a track which leads between 8 and 12 Cemetery Road. As well as the appeal site, the track serves a small number of residential and other properties. The track is relatively narrow and I saw that windows and a door of Nos 8 and 12 face directly onto the access and traffic movements along the track would be readily apparent to occupiers of those properties.
14. The Council contends that the proposal would lead to a material increase in vehicular traffic along the track, particularly at evenings and weekends. However, the appellant has made reference to the TRICS database which indicates that the proposal would only lead to an extra two vehicle movements per day compared to the permitted use of the site as stables. I acknowledge that the stables may be in limited use at the current time, but there is no evidence to show that this would continue to be the case. I am also mindful that there are other properties, including a dog grooming business, which use the track which will generate their own traffic movements. Within this context, I consider the proposal would not lead to a material increase in traffic movements as indicated by the Council. The evidence suggests that the increase in traffic would be minimal and would not lead to undue harm to the living conditions of residents of properties adjacent to the track.
15. Due to the narrow nature of the track, concern has been expressed that this will not provide suitable access for caravans. However, I note that this matter

has been considered by the Council's Highways Officer who has stated that he undertook a site visit where the appellant demonstrated that a caravan could be comfortably driven to and from the site. This reflects my own observations, where I saw that although the access track was of a limited width, this would not be of a degree which would prevent the transfer of touring caravans. I am also mindful that touring caravans have already been stored on the site and that the property serves residential properties which may also involve the keeping of a caravan on their land.

16. A public footpath passes along the track and it will also be used by pedestrians to access the appeal site and adjacent sites. Despite the narrow nature of the track I saw that there was good visibility along the track so that pedestrians and vehicles will be able to take appropriate steps to avoid conflict. Furthermore, the track is already used by vehicular traffic and there is no evidence of incidents arising from the current level of use. Although visibility was restricted where the path takes a sharp turn near the site entrance, there is a gate at that point of the path which would limit the potential for pedestrians to walk out in front of vehicles. In any event, vehicles would be passing at a very low speed or be stationary at the entrance.
17. Reference has also been made to access for emergency vehicles. I note that the Cheshire Fire Officer has stated that a 2.75m wide vehicle access over a short distance would be acceptable. Although the access to the site is relatively restricted in width, I saw that the access would meet the specified minimum requirement. Furthermore, the design of the access into the site can be conditioned so that a suitable width of access into the site as well as a pump appliance location can be provided.
18. I therefore conclude that the proposal would provide a safe and appropriate access to the site. The development would therefore comply with Policy BE1 of the CNRLP which seeks to ensure that development does not prejudice the living conditions of occupiers and would not generate such levels of traffic prejudicial to safety or neighbouring uses.

Heritage Assets

19. The appeal site is adjacent to the Weston Conservation Area (CA). The importance of the CA as a designated heritage asset is set out in the Character Appraisal and Management Strategy which refers to the townscape of C17th buildings linked by later domestic properties and the relationship with the countryside. In the area of the appeal site the townscape is described as having a strong sense of enclosure with only some views of the countryside, which represents my own observations on my site visit.
20. There was some discussion at the Hearing about the status of the CA designation. However, as was agreed at the Hearing, I have proceeded to consider the appeal on the basis that the CA and extension have been formally designated.
21. The appeal site is screened from views within the central part of the CA. However, the site is apparent in views from the footpath which leads along the access track to the site and along the CA boundary. Nevertheless, the site would not be viewed against the features which contribute to the importance of the CA as a designated heritage asset. Landscaping would also provide a degree of screening from the footpath and, within the context of the existing

features and surfacing within the site, any harm to the setting of the CA would be very limited. Therefore, any harm to the CA and its significance as a designated heritage asset would be less than substantial.

22. The appeal site is adjacent to the landholding associated with Weston House, which is a Grade II Listed Building. I saw that part of this land was used for recreational purposes in association with Weston House. However, I also saw that the curtilage of the Listed Building was defined by planting and a fence to the rear. Furthermore, a historic Tythe Map submitted by the appellants shows that the recreation area was part of wider grassland around Weston House rather than being part of its historic curtilage. Whilst the landholding associated with Weston House is part of the setting of the Listed Building, the curtilage does not extend to the boundary of the appeal site. There was limited intervisibility between the setting of the Listed Building and the appeal site due to mature evergreen planting which provides a substantial degree of screening. On the basis of what I have seen and read the proposal would not impact the setting of Weston House or its historic curtilage.

Other Material Considerations

23. The Council acknowledges that there is a need for gypsy and traveller accommodation in the Borough and this is a matter to which I attach significant weight in favour of the proposal.
24. I have also concluded that any harm to designated heritage assets as a result of the proposal would be less than substantial. In that regard, the significant weight that I have attached to the public benefit of meeting an identified need for gypsy and traveller accommodation would outweigh that harm.
25. Indeed, the appellant has emphasised a number of other matters which he considers weigh in favour of the proposal. However, as I have concluded positively in favour of the appeal with regard to the other main issues, I do not need to consider these other material considerations further.

Other Matters

26. A number of comments have referred to the nature of material imported onto the site. However, there is no substantive evidence that the material is contaminated and I note that the Council's Contaminated Land Team has no objection to the proposal. This matter does not therefore weigh against the appeal.
27. The gypsy and traveller status of the appellant has also been questioned. However, the personal circumstances of the appellant are not a determinative issue in this appeal. Reference is made with regard to anti-social behaviour elsewhere, although there is no evidence that this is linked to the appellant or this site.
28. With regards to ecology, the proposal is of a small scale on a site where there is currently development. There is no substantive evidence that the proposal would lead to harm to features of nature conservation importance.
29. Access for services to the site such as drainage may need to pass across private land owned by third parties. Reference has also been made to previous damage to walls and property from vehicles as well as such damage which may arise in the future. However, these are private matters between the parties

involved and do not weigh against the proposal which I must consider on its planning merits. With regard to services, drainage issues can also be addressed by a planning condition.

30. With regards to community integration and demand for services, mindful of the size of the settlement and the services in the village and the wider area, the effect of a single gypsy pitch would not be of a degree that would lead to undue pressure in respect of these matters.

Conditions

31. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty.
32. The scale of the development, with regard to the number of caravans at the site, should be controlled by a condition in the interests of the character and appearance of the area. The materials to be used in the proposal, landscaping, boundary treatment, and lighting should also be controlled in the interests of character and appearance.
33. A condition in respect of foul and surface water drainage is appropriate in the interests of proper site drainage. Details should be submitted and approved at the pre-commencement stage so that all appropriate drainage and sewerage measures can be assessed at an early stage and none ruled out by ground works, building operations or associated infrastructure. The appellant has agreed in writing to the pre-commencement nature of this condition.
34. With regard to the nature of the proposal and the identified need for gypsy and traveller accommodation in the area, a condition is appropriate limiting the occupation of the site to gypsies and travellers.
35. A condition requiring the details of the delivery and construction of the static caravan is appropriate due to the nature of the access to the site in the interests of highway safety and the living conditions of nearby residents.
36. To protect the living conditions of nearby residents and the character and appearance of the area, conditions are necessary to prevent commercial activity and the storage of materials on the site as well as to control the use of the stables and associated land.
37. A condition in respect of the design of the access to the site was discussed at the Hearing and I consider that such a condition is required in the interests of highway safety and emergency access.
38. The Council originally suggested that permitted development rights should be withdrawn for the scheme. However, at the Hearing, the appellant questioned whether there were exceptional circumstances to justify the condition and whether the proposal would benefit from permitted development rights. The Council agreed that the suggested condition be deleted at the Hearing and I also conclude that such a condition would not be necessary.
39. A personal occupancy condition has also been suggested which would limit the occupation of the site to the appellant and his immediate family. However, given the identified need for accommodation of this form in the area and my conclusions with regard to planning policy, the personal circumstances of the

appellant are not a determinative issue in this appeal and the suggested condition is therefore not reasonable or necessary.

Conclusion

40. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be allowed.

David Cross

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Green

Green Planning Studio Limited

Michael Stokes

FOR THE COUNCIL:

Simon Greenland

Cheshire East Council

Adrian Fisher

Cheshire East Council

INTERESTED PERSONS:

Andrew Thomson

Thomson Planning Partnership Ltd

Steven Edgar

Weston & Basford Parish Council

Pauline Goodwin

Robert Madeley

John Quigley

Documents Submitted at the Hearing

1. Draft Statement of Common Ground (signed by Council only)
2. Witness Statement of Michael Stokes
3. Heritage Impact Assessment and Appendices

Documents Received Following the Hearing (by request of the Inspector)

4. Written agreement re. pre-commencement access condition.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) There shall be no more than 2 caravans stationed on the site at any given time, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended, no more than 1 of which shall be a static caravan.
- 3) The development hereby permitted shall be carried out in accordance with the approved plans:
17_840_001 Location Plan
17_840_002 Existing Site Plan

17_840_003 Proposed Site Plan

17_840_004 Utility/Day Room

- 4) The materials to be used shall be in strict accordance with those specified in the application unless different materials are first agreed in writing with the Local Planning Authority.
- 5) Prior to the first occupation of the development hereby approved a scheme of landscaping, including a timetable for implementation, for the site shall be submitted to and approved by the Local Planning Authority in writing. The scheme shall indicate inter alia the positions of all existing trees and hedgerows within and around the site, indications of any to be retained together with measures for their protection during the course of development, also the number, species, heights on planting and positions of all additional trees, shrubs, bushes and hedges to be planted. The scheme shall be implemented in full in accordance with the approved timetable. Any tree, shrub, bush or hedge planted which, within a period of 5 years from the completion of the scheme, dies or is removed, uprooted or destroyed or becomes seriously damaged or defective must be replaced in the next planting season by another of the same size and species unless directed in writing by the Local Planning Authority.
- 6) Prior to the first occupation of the development hereby approved details of the positions, design, materials and type of any new boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority.
- 7) Prior to the commencement of development, full details of the proposed foul and surface water drainage from the site shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented before the pitch is first occupied or brought into use.
- 8) Prior to its installation on site, full details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority.
- 9) The use of the stables (and associated land edged in red) shall be for incidental purposes for the occupiers of the gypsy/traveller site unless otherwise agreed in writing by the Local Planning Authority.
- 10) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 paragraph 1 of the Planning Policy for Traveller Sites 2015.
- 11) No commercial activities shall take place on the land at any time, including the storage of materials.
- 12) No static caravan shall be brought onto or constructed on the site until there has been submitted to and approved in writing by the Local Planning Authority details of how the static caravan will be brought to the site or constructed on the site. Details shall also include the parking of delivery vehicles during the delivery or construction process.
- 13) Prior to the first occupation of the development hereby approved, a scheme for the entrance gates to the site shall be submitted to and approved by the Local Planning Authority in writing. The scheme shall

show that the entrance gates will be set back to enable emergency vehicles to access the site. The development hereby approved shall not be occupied until the scheme has been implemented in accordance with the approved details. No entrance gates shall be erected other than those approved.

END OF SCHEDULE