



Appeal Decision

Hearing and site visit held on 10 September 2019

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2019

Appeal Ref: APP/Y3940/W/18/3207616

'Land adjacent to Hisomley Farmhouse', Hisomley, Dilton Marsh, Wiltshire BA13 4DD

- 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 Thomas Ayres against the decision of Wiltshire Council.
 - The application Ref 17/12351/FUL, dated 18 December 2017, was refused by notice dated 13 February 2018.
 - The development proposed is an extension of the existing dayroom.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address set out above is taken from the application form. At the hearing it was agreed that the site is now known as 'White Horse View', Tower Hill, Hisomley, Dilton Marsh, Wiltshire BA13 4DD. For the avoidance of doubt, the site lies between the A3098 (also known as Tower Hill) and Old Dilton Road.
3. An undertaking has been entered into by the appellant, which provides that if planning permission were granted for the development now proposed, an existing mobile home on the site would be removed, and would not be replaced. There is no dispute that this undertaking is necessary in planning terms, and meets the other relevant tests for planning obligations.

Background

4. In February 2009, planning permission was granted on appeal for the use of land as a gypsy site, with a mobile home, touring caravan and dayroom (APP/F3925/A08/2088696). This part of the site is now referred to as Pitch 1. The permission was subject to a condition restricting occupation to persons meeting the planning definition of gypsies or travellers.
5. In 2013, permission was granted by the Council for an extension to the dayroom building on Pitch 1, to add a living room and conservatory (13/05493/FUL).
6. In September 2017, permission was granted for two additional gypsy pitches on the adjoining land, now known as Pitches 2 and 3, with a further mobile home, touring caravan and dayroom on each (16/111850/FUL).
7. The development now proposed would add two bedrooms and an additional living room to the dayroom building on Pitch 1, replacing the existing mobile home on this part of the site. With this further extension, the dayroom

building in total would comprise a kitchen, a bathroom, two living rooms, and two bedrooms. It is agreed that the building as thus extended would amount to a self-contained permanent dwelling.

Planning Policies

8. The relevant development plan policies relating to new dwellings in the countryside include Core Policies 1 and 2 of the Wiltshire Core Strategy (the WCS) adopted in January 2015. Core Policy 1 sets out a settlement hierarchy, and Core Policy 2 provides that development outside the defined limits of these settlements will not normally be permitted. The appeal site is outside the settlement limits of Dilton Marsh. Hisomley is not identified as a settlement in any of the tiers of the hierarchy. It is not disputed that the development now proposed would be in conflict with these policies and their aims.
9. WCS Core Policy 47 provides for development for gypsies and travellers, based on quantified needs arising up to 2021. However, in the present case the proposed development would not increase the number of pitches, and it is not argued that the development would help to meet any previously identified need. In the circumstances, Policy 47 has no direct bearing on the decision.

Main Issues

10. In the light of the above, and as agreed at the hearing, the main issue in the appeal is whether the conflict with WCS Core Policies 1 and 2 is outweighed by:
 - the personal circumstances of the appellant and his family;
 - and/or the nature of the site itself, including its physical condition, its planning history and its existing use.

Reasons for Decision

Personal circumstances

11. In accordance with their Romany Gypsy culture, Mr Ayres and his partner Miranda Hughes use the existing dayroom on Pitch 1 for cooking, eating and sitting, and the mobile home mainly for sleeping. The mobile home is said to be 40 years old. It lacks modern standards of heating and insulation, and is said to suffer from damp. Mr Ayres now suffers from a number of medical conditions, and on his doctor's advice, he has become concerned about the effects of the mobile home on his health.
12. The proposed extension to the dayroom would provide sleeping accommodation, and thus would enable the occupants to live wholly in a single 'bricks-and mortar' building. There is little doubt that the extension would provide a better standard of accommodation than the present mobile home, with a greater level of comfort and convenience. Given Mr Ayres' particular health issues, I see no reason to doubt that the development now proposed would meet his needs better than the existing arrangement, and improve his quality of life.
13. In addition, the development would be capable of offering occasional or respite accommodation for Ms Hughes' elderly parents, and could potentially provide a temporary home for one or both, if needed in the future. This would not only benefit them, but would also relieve Ms Hughes of the stress of travelling to their home in Frome to provide care, and would potentially reduce any resulting demands on publicly-funded care services.

14. In the light of the personal circumstances outlined above, I agree that the benefits of the scheme in meeting the needs of Mr Ayres and his family should carry some weight in favour of the proposed development. However these benefits are to be weighed against the acknowledged conflict with development plan policies. It is therefore relevant to consider also whether any other alternatives are available that could achieve the same or similar benefits, but without the policy conflict.
15. As acknowledged at the hearing, the most obvious alternative would be to replace the existing elderly mobile home with a more modern one, instead of a new permanent building. Unlike the appeal scheme, such a solution would not create a self-contained permanent dwelling, and thus would avoid any in-principle conflict with WCS Core Policies 1 and 2. A newer mobile home would be likely to incorporate better standards of thermal performance than the existing unit, and in addition, as the appellant points out, the existing planning permission would also appear to allow a larger size if required. In the absence of any evidence to the contrary, it seems likely that this type of solution would be capable of providing the improved living conditions and space required by the appellant, without any conflict with planning policies. I note the contention that the cost would be prohibitive, but no detailed comparative evidence is before me on this point. In any event, I am not convinced that all options have been adequately explored. The potential for a policy-compliant alternative to the appeal scheme can therefore not be ruled out.
16. Consequently, although the personal circumstances of the appellant and his family carry some weight, that weight is tempered by the lack of convincing evidence, as to why the particular solution now proposed is either necessary or preferable to other possible options which may be less harmful in policy terms. In these circumstances, I consider that the benefits of providing improved living conditions should be given only limited weight in the present appeal.

The nature of the site

17. The developments permitted in 2009 and 2013 have been implemented in full. The dayroom building erected on Pitch 1 has a brick exterior, tiled roof, bay window and conservatory. These give it the appearance of a small bungalow. To the rear is the mobile home, which has the appearance of a residential chalet. To the front and side of this is a vehicular hardstanding, and the remainder of Pitch 1 is a domestic garden area. To all intents and purposes, Pitch 1 appears essentially as a dwelling and residential curtilage in the countryside.
18. The 2017 permission has been partly implemented. Pitches 2 and 3 have been laid out, and the approved development on these additional pitches is under way. When the dayrooms on these two pitches are completed, it is likely that the site as a whole will look not dissimilar from a small, low-density housing development.
19. The development now proposed would increase the floor area and volume of the existing dayroom by about 70%, but this increase would be largely offset by the removal of the existing mobile home. Compared to the mobile home, the new extension would be slightly longer and would have a larger roof, but it would be partly hidden behind the existing building.

20. The nature of the site is therefore reasonably conducive to the proposed development. The development would be broadly in keeping with the site's existing character, and would increase the volume of built development by only a small amount. Overall, the development would not cause undue visual harm. However, the development would have no positive benefits in these respects. The lack of harm weighs neither for nor against the development, and is therefore neutral in the final balance.

Other Matters

Effects on the supply of gypsy and traveller sites

21. In accordance with Core Policy 47 and the national Planning Policy for Traveller Sites (PPTS), the Council is required to ensure a continuing supply of gypsy and traveller sites to meet local needs. The appeal site currently contributes to meeting that requirement. If the appeal proposal were to be permitted, the development would remain subject to Condition 2 of the 2009 permission, which restricts occupation of the site to gypsies and travellers. However, the new dwelling created would be a permanent bricks-and-mortar building, which would be unlikely to meet the requirements of most persons meeting the relevant definition. The result therefore would be the effective loss of one pitch from the County's future supply of gypsy and traveller sites, which would eventually have to be made up elsewhere. This adds some further weight against the development.

Undertaking

22. The legal undertaking entered into by the appellant overcomes the issue which emerged in discussion at the hearing, with regard to the enforceability of the proposed conditions relating to the removal of the existing mobile home. However, in view of the conclusions which I have arrived at above, that issue is not determinative.

Human rights

23. The appellant has a right under the Human Rights Act 1998 (the HRA) to respect for his home and family life, but a refusal of permission for the development now proposed would not take away any of the rights currently enjoyed under the existing planning permission. In the circumstances, any interference with HRA rights that might be considered to arise would be minor in nature, and would be outweighed by the public interest in upholding the aims of the relevant planning policies that I have identified.

Duty of equality

24. Reference has been made to the Public Sector Equality Duty (PSED) as set out in the Equality Act 2010. The appellant benefits from membership of a protected group protected under that Act. However, having regard to Sections 149(1) and 149(3) of the Act, there is no evidence to suggest that the granting of permission for the proposed development would help to eliminate discrimination, or to advance equality of opportunity, or to foster good community relations. I therefore find nothing in the PSED that has a direct bearing on my decision.

Planning Balance and Conclusion

25. As set out above, the proposed development would result in a new dwelling in the countryside, contrary to Core Policies 1 and 2. It would thus undermine the spatial strategy embodied in those policies. There are no development plan policies supporting the proposal. When the development plan is read as a whole therefore, the scheme conflicts with it.
26. With regard to other material considerations, the development would improve the quality of the current living accommodation on the site, to the benefit of the site's occupiers and their elderly family members. But, for the reasons explained above, this benefit carries limited weight, in view of the possibility of other alternatives which might be able to overcome the conflict with planning policies. The development would avoid causing visual harm, but this latter consideration adds nothing either for or against the development. However, the effective loss of the existing gypsy and traveller pitch from the future supply carries some additional weight against.
27. Overall therefore, the conflict with the development plan is not outweighed by other material considerations.
28. I have taken account of all the other matters raised, but none changes this conclusion. The appeal is therefore dismissed.

JS Felgate

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Simon Ruston	Planning Consultant
Mr Thomas Ayres	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Perks	Senior Planning Officer
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INTERESTED PERSONS:

Mr Francis Morland	Local resident and Parish Councillor
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