
Appeal Decision

Site visit made on 8 January 2019

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th April 2020

Appeal Ref: APP/F2415/W/19/3239776

Land off Moorbarns Lane, Lutterworth NG17 4YE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr J. Bond against the decision of Harborough District Council.
 - The application Ref 19/00886/FUL, dated 2 June 2019, was refused by notice dated 17 July 2019.
 - The development proposed is the change of use to 4 travelling showmen yards and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to 2 travelling showmen yards and associated infrastructure on land off Moorbarns Lane, Lutterworth NG17 4YE in accordance with the terms of the application Ref 19/00886/FUL, dated 2 June 2019, subject to the Schedule of Conditions attached to this decision.

Application for costs

2. An application for costs was made by Mr J Bond against the Council in connection with this appeal. This application is the subject of a separate Decision.

Procedural Matter

3. The plan showing the site subject to this planning appeal (Drawing 4375/22TSP/100) shows 3 yards on the south side of the site (Nos 20, 21 and 22) and 1 yard on the northern side (No 19). Not long prior to this appeal being lodged the Council granted a variation of a condition (Ref 19/00560/VAC) attached to the previous planning permission (Ref 17/01357/FUL), restricting permission for 18 yards, to allow a further 2 yards. This was achieved by reducing the size of some of the yards along the northern part of the site. Thus, this appeal only concerns those yards identified in the accompanying plan as No 21 and No 22.

Main Issues

4. The main issue in the determination of this appeal is the effect of the scheme on the character and appearance of the surrounding countryside, with particular reference to the level of landscaping provided.

Reasons

5. The appeal site ('the additional land') comprises a broadly rectangular area of largely flat, open land attached to a much larger, triangular site ('the triangular site') that has already been granted planning permission for 20 travelling showmen yards just outside Lutterworth.
6. The triangular site measures around 2.6 hectares. It is bounded to the north by the A4303 Lutterworth bypass, to the west by Moorbarns Lane from which access is gained, to the south by open agricultural land and to the east by an area of practice ground in association with the neighbouring Lutterworth Golf Club. 17 of the permitted yards are arranged around the outer edge of the triangular site with 3 on an island of land in the middle.
7. The eastern side of the triangular site contains an ecological buffer strip stretching for about 200 metres. It would be around 30—40 metres in width for much of its length, tapering down to around 10 metres in width at its southern end. Along the central stretch of this buffer strip is a large earth bund of around 2-3 metres in height. 30 staked trees comprising hazel, ash, hawthorn, field maple and silver birch will be planted along the inner and outer boundary of the buffer strip.
8. The additional land, which is slightly below the highest part of the site where access is gained from Moorbarns Lane, would accommodate 2 travelling showmen yards notated as No 21 and No 22. It would have 3 external boundaries to the west, south and east. In addition, the redline area within the application incorporates an internal road leading from the additional land to the entrance at Moorbarns Lane as well as an area for landscaping.
9. According to the appellant, the additional land measures around 0.4 hectares. The 2 proposed extra yards would be sized so that they could each accommodate up to 3 caravans (including 1 static) and associated fairground equipment. It is envisaged that the yards would mainly be used in the winter months.
10. The parcel of land within which the additional land sits is categorised in the Lutterworth Landscape Character Assessment (LLCA) as being partly arable and partly rough pasture. It is punctuated by hedges of varying quality. A restricted view of the parcel is available from parts of Moorbarns Lane. The LLCA concludes that the parcel has medium to high capacity to accommodate residential, commercial or industrial development.
11. The aforementioned ecological buffer strip would run in tapered form to the east of yard No 10 (see GBa&e Drwg No 4423/06) along what is now the boundary between the triangular site and the additional land. In the plan accompanying this appeal, yard No 10 is now notated as yard No 20. This buffer strip would be relocated to the eastern side of the additional land adjacent to the golf practice area. According to the DJOGS Landscape Architecture and Ecology Services report ('the DJOGS report'), this strip will not entail any change to the current landform.
12. A landscaping scheme indicates that the new buffer strip will be planted with 3 field maple and 1 common ash along its eastern edge and with 1 field maple, 1 common ash and 1 hornbeam along its southern edge.

13. Existing hedging along the 3 external boundaries of the additional land will be retained. The line shown along all 3 boundaries on the landscaping scheme is notated as 'native hedgerow planting' (which implies new planting). However, I noted during my visit that the existing hedgerows were largely still in place, although some gapping-up is required. I have incorporated an appropriate condition to ensure that this is achieved.
14. There will be restricted views into the additional land from Moorbarns Lane but more open views from the golf practice area and the slightly more distant golf course to the east and south. Although this is private land, I consider that these views would be important since these facilities will still be used by relatively large numbers of people during the year.
15. Unlike the buffer area along the eastern boundary of the triangular site the strip along the edge of the additional land will not be mounded. As the appeal site would be used primarily during the winter months when the proposed new trees would not be in foliage, I find that it is probable that the static and mobile caravans, and other associated equipment, would be very visible from the golf practice area and golf course at that time of year. Furthermore, it would be some years before the new trees are large enough to provide effective screening during the summer months.
16. Therefore, I do not agree with the conclusion in the DJOGS report that no enhanced landscaping is required to mitigate the visual effects of the development proposal. However, if a hard earth mound of similar dimensions to the one on the eastern side of the triangular site were to be put in place along the edge of the additional land then the 2 new yards could be effectively screened.
17. Consequently, for the reasons set out above I conclude that the development proposal would not cause harm to the character and appearance of the open countryside. Thus, I find that it is compliant with Policy H6(6) of the Harborough Local Plan which supports the development of proposals for Travelling Showpeople subject to the provision of appropriate mitigation measures in the form of landscape screening to protect the character and appearance of the locality.

Other Matters

18. It has been contended that the local plan only provides for 18 yards for travelling showmen at Moorbarns Lane, that the Council has met the 5-year supply requirement for travelling showmen yards in Lutterworth, that there are vacant travelling showmen yards and that there is no unmet need justifying this facility.
19. However, the requirement stipulated in the Council's development plan 2016-2031 is for a minimum, and not a maximum, level of provision. Furthermore, Policy H6(6) permits extensions to existing facilities subject to meeting specified criteria. I consider that the site meets all these criteria. Thus, I find that the principle of the proposal is not in question.
20. Concern has been expressed over the suitability of Moorbarns Lane to accommodate additional heavy vehicles. However, the Council's highways officers considered that the proposal would not result in any unacceptable problems.

21. Finally, if a planning application were to be submitted in future for residential development on the site at Moorbarns Lane then it would be treated on its merits. The grant of planning permission for this scheme does not imply that permission would be granted for residential or for any other form of development on the same site.

Conclusion

22. This appeal is allowed, and planning permission is granted for the proposed development subject to the Conditions in the attached schedule.
23. In addition to the standard 3-year implementation condition I have imposed a condition requiring the submission to, and approval by, the Council of a scheme for hard and soft landscaping to ensure that the visual effects of the scheme shall be properly mitigated. A further condition is attached to ensure that the approved landscaping scheme is properly implemented. In order to protect the surrounding countryside and to comply with local plan policy I have attached conditions restricting the number of mobile and static caravans that can be kept in each yard, their location relative to the boundary hedging and the use to which each yard can be put to. To ensure highway safety I have attached conditions requiring approval by the Council of an access arrangement and internal footway and highway works. For the same reason I have also stipulated that any barrier or gate must not open across Moorbarns Lane. To minimise any possible light pollution, I have required that a plan for lighting be submitted to and approved by the Council. To ensure that the site is not used for residential purposes I have attached a condition limiting occupation to travelling showpeople. Finally, in the interests of certainty, I have attached a condition requiring implementation in accordance with the submitted plans.

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of permission.
2. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:
 - (a) indications of all existing trees and hedgerows on the land;
 - (b) details of any trees and hedgerows to be retained, together with measures for their enhancement or protection in the course of development;
 - (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
 - (d) finished levels and contours;
 - (e) means of enclosure;
 - (f) hard surfacing materials;
 - (i) programme of implementation
 - (j) details of enhanced landscaping to the south and eastern boundaries.Thereafter the development shall be implemented fully in accordance with the approved details and retained in perpetuity.
3. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the site or the completion of the development, whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years from the date of first occupation of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.
4. On each of the additional 2 plots hereby approved no more than 3 caravans shall be stationed at any time, of which only 1 caravan shall be a static caravan. None of the hardstandings, buildings or parking areas shall be located within 5 metres of the boundary hedging.
5. Any commercial activities that take place on the land shall remain ancillary to the use of the land for Travelling Showpeople provision.
6. Prior to the site being first occupied, the proposed access shall be constructed to a standard and dimensions in accordance with a scheme which shall have been submitted to and approved by the LPA in consultation with the Local Highway Authority. This scheme should include a 10m radius kerb on the northern side of the access and a 7.3 metre wide access provided. The scheme shall also include Drainage and surfacing details. The occupant shall ensure that the approved scheme shall be maintained.
7. If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of

15 metres behind the highway boundary and shall be hung so as not to open outwards.

8. Prior to the occupation of the first plot on the site, the applicants shall construct, complete and open for use, the highway and footway works in accordance with a scheme which shall have been submitted to and approved by the Local Planning Authority in consultation with the Local Highway Authority.
9. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting approved shall be installed and shall be maintained in accordance with the approved details.
10. This site shall not be occupied by any persons other than Travelling Showpeople.
11. The development approved shall be in accordance with the following approved plans Location Plan and Site Layout Plan 4375/22TSP/100.

