



Appeal Decision

Site Visit made on the 12th January 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2021

Appeal Ref: APP/Q3305/W/20/3246321

Willow Brook Stables, Marsh Road, Standerwick, FROME, BA11 2PZ

- 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 Jim Griggs against the decision of Mendip District Council.
 - The application Ref 2019/1458/FUL, dated 8 June 2019, was refused by notice dated 4 December 2019.
 - The development proposed is the change of use of land with associated ancillary development to one Gypsy and traveller pitch.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land with associated ancillary development to one Gypsy and traveller pitch at Willow Brook Stables, Marsh Road, Standerwick, FROME, BA11 2PZ in accordance with the terms of the application, Ref. 2019/1458/FUL, dated 8 June 2019, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Applications for costs

2. An application for costs has been made by the appellant against the Council. This is the subject of a separate decision.

Preliminary Matter

3. An objector to the proposal raises doubt about the status of the intended user of the pitch (the appellant's brother) as a Gypsy, however, the Council does not contest his status as complying with the definition set out in the annexe to Planning Policy For Traveller Sites (PPTS) and I have no reason to take a different view.

Main Issue

4. The main issues are whether the proposed additional Gypsy/traveller pitch would, in conjunction with existing sites, upset the balance with the settled community and harm the character of the area.

Reasons

Background

5. The site lies to the rear of a short frontage of properties and two other Gypsy and traveller pitches in an area of open countryside away from any defined

settlement. It is proposed to develop a further pitch for the appellant's brother with a static van, day room and space for a touring van and parking spaces.

General policy context

6. The proposal needs to be considered with the provisions of the development plan and the material consideration of national guidance. Various policies in the Mendip District Local Plan-Part 1 (adopted in 2014) are mentioned in the reason for refusal. Of these Policy DP1 relates to 'Local Identity and Distinctiveness' but it is not clear how the proposal would conflict with any of the three criteria set out in the policy. Policy DP7 concerns the 'Design and Amenity' of new development and sets out factors that new development should meet. Again the Council has not specified how this policy is conflicted with but it may be that the scale of the development is not considered appropriate for the area (criterion a) and there is also an issue about the protection of the amenity of users of adjoining buildings (criterion b). Moreover, I note that criterion (c) seeks to optimise the potential of a site in line with the policy.
7. Policy DP15 is pertinent to the appeal regarding Gypsies and travellers and part 1 deals with the allocation of sites to meet the local need, while part 2 sets out criteria to consider new Gypsy and traveller sites against. The Council does not put forward a case that the proposal conflicts with any of the first four bullet points and the only part of the 5th point relevant to the reason for refusal is whether the proposal would have a significant adverse impact on the character of the area. I will consider this in the main issues.
8. In terms of the national guidance, the PPTS indicates in paragraph 25 that sites in open countryside away from settlements should be very strictly limited and sites in rural areas should respect the scale of and not dominate the settled community and avoid placing any undue pressure on the local infrastructure. The first part of this guidance reflects the Council's concern about the appeal proposal.
9. The PPTS also advises under Policy B that Councils should identify and annually update a five year supply of new sites set against a locally derived target. I understand from the officer report to the Board that the Site Allocation Document pursuant to the first part of Policy DP15 is some way off and the Council accepts that it cannot demonstrate a supply of deliverable sites at the moment to meet the requirements of the PPTS. The Council also recognises that the present high level of need for Gypsy and traveller pitches in the area should be given significant weight as there are no other affordable and acceptable sites available.

Whether balance would be upset

10. The appellant and the Council disagree over the area in which the settled community and the number of Gypsy and traveller sites should be assessed. The appellant's agent favours looking at the whole parish while the Council has looked at a relatively local area as broadly enclosed by Marsh Road and the A36. There are shortcomings with each approach but taking the Council's one as a starting point, this suggests that there are 13 settled households locally whereas it estimates that there are 10 Gypsy and traveller pitches and therefore the Council state that such pitches already represent 43% of the community. The appellant disputes the exact number of pitches at Moors Barn

and while the figures involved are not great, any variation can have a significant effect on an arithmetic ratio. However, taken at face value, the figures put forward do not suggest, even at its most local basis, that the settled community would be dominated by the presence of an additional site as proposed.

11. At the site visit I noted the array of permanent dwellings along the Marsh Road frontage in the vicinity of the site together with the two Gypsy and traveller sites as developed by the appellant. In this very local area, it appeared to me that the scale of the settled community by far exceeded the Gypsy and traveller accommodation and the additional pitch proposed would not dominate this balance in visual terms. I also noted the occupied caravan site at the sharp bend further to the north-west (Moors Barn) but that appeared to be visually distinct from the local environs of the appeal site, as it was separated by open fields.
12. In terms of either absolute numbers or by physical or visual effects I find that the proposal in cumulation with the existing provision would not lead to the settled community being dominated. Moreover, the Council does not suggest that the proposal would give rise to a state which would place undue pressure on local infrastructure and services. I therefore find that the proposal would be of a scale which respects the local area and does not conflict with the guidance set out in the PPTS particularly paragraph 25.

Effect on the character of the area

13. The appeal site lies to the rear of a pair of existing Gypsy and traveller sites in a frontage of a few detached and semi-detached properties along Marsh Road. There is therefore a cluster of built development around the appeal site in an area of generally open countryside. Moreover, the adjoining property to the north-west, Foxes Drove Cottage, has an extensive and well-landscaped garden which screens views of the appeal site from the north-west. Consequently, views of the proposed Gypsy and traveller site, with its static van, touring caravan and day room would not be visually prominent when viewed from the public realm or in the wider rural landscape.
14. I am satisfied that visually and physically the appeal site would not harm the character or appearance of the area, and there is no conflict with the general provisions of Policies DP1 or DP7. Moreover, in terms of the specific policy DP15, although the appeal site is not close to services and facilities, as per the 2nd bullet point, this has to be balanced by its location adjoining the existing sites in the same family group. Taken as a whole, I find that the proposal accords with part 2 of Policy DP15.

Other matters

15. Local objectors to the proposal say that the appeal site incorporates land that used to be a local by-way known as Foxes Drove and that legal title to this land is disputed. However, this is a separate legal matter beyond the scope of the planning application. If the appellant could not secure the access to the site and the land to be used for parking and manoeuvring space then that would be likely to be regarded as a fundamental change to the planning proposal.
16. Concern is also expressed about the siting of a domestic cess-pit within part of the site close to Foxes Drove and the adjoining cottage and the potential for

this to cause pollution and unpleasant smells which would harm the living conditions of the occupiers of that property. However, the Council and the statutory drainage bodies have not raised this as an issue. Moreover, in a rural area away from mains drainage, such a solution for the disposal of foul drainage is not unacceptable in principle. I am satisfied that a scheme for drainage from the proposed pitch can reasonably be dealt with by a planning condition.

Planning balance

17. On the main issues I have found that the proposed additional Gypsy and traveller pitch, taking account of other similar sites in the area, would not result in a cumulative effect which would upset the balance with the settled community nor dominate it. Neither would the proposal harm the rural character of the area in visual or physical terms. I have concluded that the proposal does not conflict with the main relevant provisions of the development plan.
18. Further, the Council's present position where it is accepted that it cannot demonstrate a five year supply of new sites in accordance with the PPTS and to meet Part 1 of Policy DP15 is important. The Council also recognises that there is a high level of need in the area but no other sites are available. These are all factors that should be given significant weight and I find that the proposal meets the PPTS when this is considered as a whole.
19. This overall policy accord has to be balanced with other considerations, especially the local objections expressed, but these are not of such significance to outweigh the positive aspects. I will therefore allow the appeal.

Conditions

20. The Council recommends the imposition of nine conditions on any permission which I will consider under the same numbering. In addition to the statutory condition on the commencement of development it is reasonable in the interest of clarity to specify the plans that are approved (No.2) and the development must be carried out in accordance with them. As the proposal is for a Gypsy and traveller pitch, to which specific policies apply, it is reasonable and necessary to impose conditions to regulate the occupancy of the pitch to Gypsy or traveller people (No.3) and the number of caravans that may be sited there (No.4) as well as to restrict commercial or business activities (No.7) given the close proximity to housing. In the interests of highway safety and to ensure adequate parking on site and good visibility at the access, it is reasonable to impose conditions 5 and 6. The submission and implementation of a landscaping scheme (No.8) is necessary to ensure that the appearance of the overall development is acceptable, and in order to prevent pollution and flooding an appropriate drainage scheme needs to be agreed with the Council and implemented (No.9).

Conclusions

21. For the reasons give above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. This decision relates to the following drawings: TP01, 02, 04, 05A, 06, 20 (Drainage only) and 21.
3. 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).
4. There shall be no more than one pitch on the site. The approved pitch shall accommodate 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), shall be stationed at any time, of which only 1 caravan shall be a static caravan.
5. No occupation shall commence until the parking and turning areas have been constructed in accordance with details shown on the approved plans. The parking and turning shall thereafter be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
6. There shall be no obstruction to visibility greater than 900 millimetres above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 120m either side of the access. Such visibility shall be fully provided before the development hereby permitted is first occupied and shall thereafter be maintained at all times.
7. No commercial activities or business use(s) shall take place on the land, including the storage of materials.
8. All hard and soft landscape works including boundary treatments shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme (phasing) agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.
9. Notwithstanding the details submitted, no development shall commence until a detailed scheme for the disposal of foul drainage from the development has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and completed prior to the occupation of the pitch.