



Appeal Decision

Hearing held on 13 January 2021

Site visits made on 10 and 27 of January 2021

by Mark Dakeyne BA (Hons) MRTPI

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

Decision date: 28th January 2021

Appeal Ref: APP/R0660/W/19/3229076

New Start Park, Wettenhall Road, Reaseheath, Nantwich, Cheshire CW5 6EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Thomas Hamilton against the decision of Cheshire East Council.
 - The application Ref 18/2925N, dated 8 June 2018, was approved on 30 November 2018 and planning permission was granted subject to conditions.
 - The development permitted is change of use of land to use as a residential caravan site for 8 gypsy families, each with two caravans, including improvement of access, construction of access road, laying of hardstanding and provision of foul drainage.
 - The condition in dispute is No 1 which states that: *The use hereby permitted is temporary until 3rd June 2021. At the end of this period the use hereby permitted shall cease, all caravans, materials and equipment brought onto the land in connection with the use shall be removed, and the land restored to its former condition in accordance with a scheme previously submitted to and approved in writing by the local planning authority.*
 - The reason given for the condition is: *To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 and to allow sufficient time for the Emerging Local Plan and site allocations document to progress.*
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Preliminary Matter

1. The application made was for planning permission without complying with a condition, in this case condition no 1 of planning permission 15/4060N, which limited permission to a period of 3 years from the date of the decision i.e. up to 3 June 2019. In effect the appellant sought a permanent permission for the traveller site. However, the Council granted a further permission subject to a condition limiting the permission to a temporary period until 3 June 2021 (condition no 1 of planning permission ref: 18/2925N). Despite the nature of the original application, I intend to deal with the appeal under Section 78 of the Planning Act as being against a grant of planning permission subject to conditions, the condition in dispute being no 1 of planning permission ref: 18/2925N.

Decision

2. The appeal is allowed and the planning permission Ref 18/2925N for change of use of land to use as a residential caravan site for 8 gypsy families, each with two caravans, including improvement of access, construction of access road, laying of hardstanding and provision of foul drainage at New Start Park, Wettenhall Road, Reaseheath, Nantwich, Cheshire CW5 6EL, granted on 8 June 2018 by Cheshire East Council, is varied by deleting condition nos. 1 and 6.

Main Issue

3. The main issue is whether temporary or permanent permission should be granted for the traveller site having regard to its accessibility; the effect on the character and appearance of the area; the provision and need for traveller sites; and the sustainability of the development overall.

Reasons

Accessibility

4. The site lies in open countryside about 1 km from the edge of Nantwich and some 3 km from the town centre. The Government's Planning Policy for Traveller Sites (PPTS) indicates that traveller sites in open countryside away from existing settlements should be very strictly limited. However, the PPTS or Policy SC7 of the Cheshire East Local Plan Strategy (LPS) do not preclude traveller sites in the countryside. The Council agrees that the location is not one where traveller sites should be very strictly limited. Having regard to PPTS, the site's distance from Nantwich and previous decisions, including an appeal decision relating to a site which was more than 4km from Sandbach¹, the appeal site is not 'away from existing settlements'.
5. A range of services and facilities are available within around 3 km of the site, including primary and secondary schools. The major urban extension of Nantwich at Kingsley Field, allocated in the LPS and granted outline permission, may bring some services, such as a convenience store, primary school and health centre, nearer to the appeal site, depending on whether these elements ultimately form part of the development and where they are located.
6. Wettenhall Road is a country road, without lighting and footways, subject to the national speed limit. There are some bends between the appeal site and the A51. Local residents refer to recent accidents and its deteriorating condition. The road is not designed for walking or cycling and is unsuitable for such journeys during the hours of darkness or in adverse weather conditions. In addition, there are currently no footways on the A51 towards Nantwich.
7. However, for most of the length of Wettenhall Road, forward visibility and the width of the road are reasonable. Moreover, the distance to the A51 is not great. The stretch of Wettenhall Road between Cinder Lane and the A51 forms part of the Crewe and Nantwich Circular Walk. The road also serves as part of the national cycle route network. Therefore, it is considered to be reasonably safe for recreational use. I saw a few people walking and cycling along the road during my site visits. Walking and cycling links to the town centre and other facilities would be enhanced when Kingsley Field is built out. Walking and cycling are an alternative for some journeys and the scope is likely to increase in the future.
8. The access to the site provides reasonable visibility. The vehicular movements generated from the site do not materially affect the safe and effective operation of the highway network.

¹ Appeal decision ref: APP/R0660/W/15/3137298 dated 20 September 2016

9. The Reaseheath College Campus has historically formed a cut-through for pedestrians and cyclists so avoiding the initial section of Wettenhall Road and a stretch of the A51. But there is no public right of way or permissive route. Signage indicates that the campus is private. However, the unavailability of the short cut does not, in my view, result in an unacceptable level of accessibility for the traveller site.
10. Nantwich Railway Station is about 4 km from the site and the nearest bus route some 2.5 km away. It is unlikely that residents of the appeal site walk or cycle to access public transport, but again the driving distances are relatively short.
11. All in all, although most essential trips would be made by private vehicle, the journeys are not that long. Taking into account criteria 2.i. (proximity of the site to local services and facilities), ii. (access to public transport), and iii. (safe pedestrian, cycle and vehicular access onto the site) of Policy SC7, I consider that the accessibility of the site is satisfactory. The distances referred to in the justification to Policy SD2 of the LPS relate to built residential development, not traveller sites. Moreover, the National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

Character and appearance

12. The site lies within an area of gently undulating farmland to the north of Nantwich. Most of the landscape is made up of a patchwork of rectilinear shaped fields used for grazing of farmstock and horses, although there is a plantation adjacent to the northern and eastern boundaries and a livery yard close to the north-east corner of the site. A cluster of established houses lies further away to the east along Cinder Lane.
13. The traveller site does not relate to this existing settlement pattern, being divorced from Cinder Lane and in this respect leads to some adverse impacts on landscape character. However, in terms of visual impact, the harm is limited due to the setback from Wettenhall Road and the existence of hedgerows along Wettenhall Road and screening to the site boundaries. The screening provided by the plantation limits views from the public footpath to the south of Rookery Brook and from other viewpoints from the north and east. That said the site is visible down the access road and through the gaps in the roadside hedgerows. However, visibility would be reduced when trees and hedges are in leaf. The fact that the tops of the caravans and other parts of the development are visible from the road does not equate to significant visual harm.
14. I was advised that a landscaping scheme had been approved in connection with the previous temporary permissions. The scheme appeared to include the retention of existing hedgerows around the site with the planting of gaps with native species and landscaping along the access road. On this basis the visual impact is acceptable. The fencing erected around the site boundaries and the entrance piers which I saw on my site visits and which are uncharacteristic landscape features, do not appear to be part of the approved landscaping and, therefore, do not form part of my assessment of the visual impacts.
15. Taking into account that most traveller sites are located in the countryside and some degree of landscape and visual harm will occur with many sites, the

landscape and visual impacts are within acceptable bounds.

Provision and need for traveller sites

16. Policy SC7 of the LPS indicated a need for 69 permanent pitches for gypsies and travellers between 2013 and 2028 based on the 2014 Gypsy and Traveller Accommodation Assessment (GTAA). The Council indicates that around 30 pitches have been granted permanent permission since the base date of the Plan². Therefore, based on the development plan and its evidence base, a substantial need for pitches still exists. The main parties agree that there is no 5-year supply of traveller sites and no alternative sites available.
17. The Council is progressing a Site Allocations and Development Policies Document (SADPD). As part of the evidence for the emerging plan, a new GTAA was prepared in 2018. This GTAA takes into account the revised definition of travellers in PPTS. It indicates a need for 32 pitches for those travellers that meet the definition, the 'knowns', which is incorporated into the latest iteration of the SADPD through Policy HOU5a,. However, the GTAA and the Plan itself have not been tested at examination. Representations have been made about the traveller policies and the GTAA, including the approach to translating 'unknowns'³ into a requirement. Based on studies elsewhere, it may well be that the needs of unknowns have been underestimated. However, this appeal is not the forum for determining the current level of need. For these reasons I give the need identified by the emerging SADPD, or indeed any alternative suggestions as to current levels of need, limited weight.

Sustainability overall

18. Whether a traveller site is sustainable does not just depend on its accessibility and landscape and visual impacts but on a number of other economic, social and environmental factors. Paragraph 13 of PPTS, although primarily aimed at Plan-making, sets out some of the considerations. The traveller use of the appeal site achieves the objectives of allowing access to health services and schools from a settled base; avoiding unauthorised encampments, areas of flood risk and poor environmental quality, and putting undue pressure on local infrastructure; and allowing travellers to live and work from the same location. There is nothing before me to suggest that peaceful and integrated co-existence between occupants of the site and others in the local community is not being achieved.
19. PPTS indicates that sites in rural areas should respect the scale of, and not dominate, the nearest settled community. As previously indicated the site is set apart from Cinder Lane and does not physically dominate it. In addition, the 8 households on the appeal site do not socially dominate the larger number of households occupying homes in Cinder Lane and the outlying farms and cottages in the wider rural area.
20. In considering sustainability overall, regard needs to be had to the Framework which indicates that the planning system should be genuinely plan-led. In this respect the emerging SADPD proposes the allocation of a number of traveller

² This excludes the 24 pitches at the Three Oakes Site, Booth Lane, Middlewich where the permission has expired

³ 'Unknowns' are those households whose travelling status it has not been possible to determine through surveys conducted as part of the GTAA

sites to meet the needs of 'known' travellers and some of the 'unknowns'. The appeal site is one of those proposed allocations.

21. However, representations have been made objecting to the proposed allocation. Other allocations are also proposed upon which representations have been made. It will be for the examination to test the acceptability of the allocations in the context of the evidence, including the Site Selection Reports for traveller sites, and the need for sites. However, the Site Selection Reports do give some overall analysis of the relative merits of a number of potential allocations for traveller sites. Most of these are in the open countryside and have defects in terms of accessibility or other considerations. The Council has weighed up the factors and, as things stand, has decided to allocate some 6 sites for travellers, including the appeal site, to meet needs. In this context, I give moderate weight to the proposed allocation of the site and the evidence base behind it in recognising the relative acceptability of the site.

Other Matters

22. I was not provided with details of the families occupying the appeal site. But the site provides 8 households with a settled base. Allowing the families to remain on the site permanently would have significant benefits in terms of allowing access to health and education, for general well-being and would be in the best interests of the children who live on the site. No alternative sites for permanent occupation are currently available for the site residents.
23. I have taken into account the previous appeal decision relating to the site⁴ and that relating to a site in Cinder Lane⁵. The Inspector, in 2011, was considering accessibility, and indeed sustainability, in a different policy context. PPTS and the LPS have been published since that decision. In terms of landscape and visual impact, my conclusions are reasonably consistent with the 2011 Inspector. Moreover, the previous Inspector did not have the benefit of the comparison of a number of traveller sites in Cheshire East against a range of factors as contained in the SADPD and supporting evidence. He also anticipated that alternative sites would become available through the development plan process within 5 years. Here we are 10 years later and, although there is light at the end of the tunnel, no traveller sites have found their way into an adopted development plan.
24. In terms of the Cinder Lane decision, the Inspector was considering a proposal for residential development for the settled community and, therefore, the policy considerations, including those relating to accessibility and the sustainability of the location, were different from the traveller site.

Conclusion

25. The accessibility of the site and the effects on character and appearance are satisfactory in the context of a traveller site. The need for additional traveller sites in Cheshire East and the lack of a 5-year supply are factors in favour of a permanent permission and attract substantial weight. The development is sustainable overall. I have not found any significant harmful effects.

⁴ Appeal decision ref: APP/R0660/A/10/2131930 dated 21 January 2011

⁵ Appeal decision ref: APP/R0660/W/16/3146021 dated 10 June 2016

26. In terms of the development plan, the pitch sizes are appropriate, adequate provision is made for parking, turning and servicing, the site is not in the Green Belt and there is no impact on the historic environment. As reasoned earlier, the site is reasonably close to local services and facilities, public transport can be accessed via a relatively short journey and vehicular access to the site is safe. Pedestrian and cycle access is safe enough during daylight hours and in good weather and compares well with many traveller sites. Therefore, I find compliance with Policy SC7 of the LPS.
27. Policy PG6 of the LPS allows uses which are appropriate to rural areas. Given that PPTS and Policy SC7 do not preclude traveller sites from countryside locations, the development falls within a category that can be permitted subject to compliance with other relevant development plan policies. In this case there is compliance with Policy SC7, the most important policy for determining the appeal. Therefore, the proposal accords with the development plan.
28. This decision is made outside the development plan process. However, the development is not so substantial that to grant planning permission would undermine the plan-making process. Moreover, the development complies with the development plan overall. Any modest harm is significantly outweighed by the benefits. In such circumstances there is no need for a further temporary permission. I do not have information about the current personal circumstances of the site occupants, but given the above, it is not a matter which would be decisive in the planning balance
29. In conclusion, permanent permission should be granted for the traveller site having regard to its accessibility; the effect on the character and appearance of the area; the provision and need for traveller sites; and the sustainability of the development overall.
30. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting condition no 1. In addition, as discussed at the hearing, condition no 6 of planning permission ref: 18/2925N is not required as the site will no longer need to be reinstated after a temporary period of use. The remaining conditions imposed on planning permission ref: 18/2925N (nos. 2, 3, 4, 5 and 7) still take effect.

Mark Dakeyne

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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