



Appeal Decision

Site Visit made on 14 December 2020

by David Wyborn BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2021

Appeal Ref: APP/Q3305/W/20/3254517

Moors Barn, 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 under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ryn Luxmoore against the decision of Mendip District Council.
 - The application Ref 2020/0255/VRC, dated 5 February 2020, was refused by notice dated 23 April 2020.
 - The application sought planning permission for Proposed change of use of agricultural land to extend an existing Gypsy and Traveller site by 3 no. Pitches, including erection of one additional day room and associated works without complying with a condition attached to planning permission Ref 2017/2698/FUL, dated 23 January 2018.
 - The condition in dispute is No 2 which states that: The development hereby approved shall be carried out in accordance with drawing numbers TP02, TP03 Rev C and TP04.
 - The reason given for the condition is: For the avoidance of doubt and in the interest of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Planning permission has been granted for a 3 pitch gypsy and traveller site. The furthest pitch from the entrance included a day room. A different day room has been constructed to that approved and the application seeks to vary the approved plans so that the day room as built can be retained.

Main Issues

3. The main issues are:
 - the effect of the day room on the character and appearance of the area, having particular regard to its size and height and whether it is commensurate with the functional needs of the site, and
 - whether the day room is tantamount to the provision of a self-contained unit of accommodation.

Reasons

Character and appearance

4. The site is located within a generally rural area with fields bounded by hedges and trees, and some limited areas of woodland as well as groupings of dwellings, caravans, farm and other buildings. The A36 and the railway

- embankment are nearby, with electricity overhead cables on a pylon running through the adjoining paddocks, however, the predominant character of the wider area is the generally rural surroundings with its fairly flat pastoral landscape.
5. The approved site for the pitches runs parallel with the adjoining road. There is a reasonable screen of trees, hedging and a fence that borders the road, however, there are still gaps in the vegetation that allow some views through to the site. The approved strip of land for the pitches adjoins a section of paddocks. When viewed from within the site, a mix of buildings, storage of materials and caravans are visible in the surroundings, some at the base of the railway embankment.
 6. The evidence indicates that the approved day room was intended to serve one pitch and that other day rooms would have been sought to meet the needs of the other pitches for the then applicant and the intended occupiers. The appellant and his family who now live on the site together with two other close relatives and their families wish to share a single day room.
 7. Based on the information contained within the submissions, I have taken into account the needs of the families on the site and their requirements for a combined day room. The floorspace which has been constructed extends to about 168sqm. I appreciate that a combined space would be larger than a dayroom used by a single family. However, a combined day room would still for instance, in all likelihood, need only a single kitchen, albeit larger, and this and other facilities would have the potential to be shared and therefore more efficient in the overall use of space. However, the floorspace as proposed and built is more than 3 times the previously approved day room for the site.
 8. I have noted the explanations for the various parts of the building. However, the extent of the submissions do not provide compelling evidence to justify the size of those individual elements, for instance the quite extensive sizes of the storage rooms, bathroom and central corridor, to clearly demonstrate why the overall extent of floorspace is reasonable and commensurate with the functional needs of the site as a whole¹. Indeed, based on the evidence and my site visit, I consider that the floorspace of the building appears overly large and is disproportionate to the functional needs of the three pitches. The building is therefore larger than necessary in this countryside area where development plan policies are generally restrictive of development.
 9. The plans show, and the layout as built on site, is single storey. I therefore do not give weight to the argument that the proposal would provide a two storey building with a floorspace double the ground floor area. However, based on the information before me, I am not satisfied that the extent of the ground floor area has been adequately justified as being commensurate to serve three pitches and the requirements of the occupiers on the site.
 10. The footprint has a near square form. This means that the roof has to span quite a sizeable width of the building. The result is that the roof, even with a reasonably shallow pitch, appears to have quite a high ridge. The bulk of the roof is increased because of the gable end design. As the building is fairly separated from other structures and in a reasonably open location, with the

¹ I have noted the references of both main parties to the advice in "Designing Gypsy and Traveller Sites, Good Practice Guide" although this is not now current guidance.

lower, nearly flat roofed static caravans as an immediate and main reference, the roof, in particular, appears quite prominent and an incongruous addition to the site.

11. The building is substantially constructed from a range of acceptable materials and there are other buildings in the wider surroundings, some of which are also bulky. However, the position of this building on the site in a reasonably exposed location is such that the bulky roof form is visible within the site, from some areas after entering from the side road and partially, at times, through parts of the boundary vegetation from the road. Taking all these matters into account, the visual impact of the roof of the day room, in combination with the overall footprint of the building, harms the character and appearance of this generally rural area and planning conditions, such as increased landscaping, would not overcome this harm.
12. There was a building in this location in the past. However, that building has been removed and this past situation affords limited weight in the overall assessment of the impact of the day room as now constructed. I also give limited weight that in time three separate day rooms may have become present on the site as these would be separate buildings with, in all likelihood given the day room that has been permitted, much less bulk and presence in the landscape.
13. In the light of the above analysis, I conclude that the floorspace of the day room has not been justified as commensurate with the functional needs of the site and that the size and height of the building, in particular the roof bulk, harms the character and appearance of the area. Accordingly, the scheme conflicts with Policies DP1, DP7 and DP15 of the Mendip District Local Plan Part 1: Strategy and Policies 2006-2029 (December 2014) (the Local Plan) which seek, amongst other things, that gypsy and traveller sites should not have a significant adverse impact on the landscape and that all development is of a scale, mass, form and layout appropriate to the local context.
14. Because of the identified harm, the day room would not meet with the approach in the Planning Policy for Traveller Sites that when considering applications weight should be attached to sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.

Whether the day room is tantamount to the provision of a self-contained unit of accommodation

15. The day room has the attributes and facilities of a dwelling. However, most day rooms also have the same facilities and it is usually accepted that they are a necessary part of a gypsy and traveller site. In this case, there is a concern with the size of the floorspace and that it appears that the day room was occupied while the static caravans were put in place. Nevertheless, the proposal is made on the basis it would be used as a day room and not a separate dwelling and I need to determine the appeal based on the proposal before me.
16. The window in the end gable has been blocked up. It would be possible in any approval to remove, by an appropriately worded planning condition, the ability without planning permission to insert windows to the gables and roof slopes and thereby control any future occupation of the roof space. It would also be

possible by planning condition to restrict the day room to such accommodation. In these circumstances, I am satisfied that the proposal should be considered on the basis of it being a day room and not a separate dwelling. If permission was granted for the day room, and it was used in the future as a dwelling, it would be open for the Council to consider enforcement action.

17. It follows that I conclude that the application should be considered on the basis of the submission for a day room and not a dwelling house and therefore this should not form a reason for refusal in this case. The day room would, therefore, not be a new dwelling in the countryside and there would be no conflict in this respect with Policy CP1 of the Local Plan which sets the spatial strategy, including for the delivery of new housing across the district.

Conclusion

18. The proposal should be considered as a day room rather than a dwelling, however, this is neutral in the overall analysis of the scheme. I am not satisfied that the size of the day room has been demonstrated to be commensurate with the functional needs of the holding. I have found that the size and height of the building is harmful to the character and appearance of the area. These are matters which I afford substantial weight.
19. The occupiers of the site, in accordance with the original planning permission, will have protected characteristics, as gypsies and travellers, under the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. I have had due regard to these important considerations as well as those rights set out in the Human Rights Act 1998 which enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights. In particular, I have taken into account Article 8 and the right to respect for private and family life, including the traditions and culture associated with the gypsy way of life. This is a qualified right, and interference may be justified where in the public interest. I have also taken into account, as a primary consideration, the best interests of the children² on the site. These are all matters which weigh in favour of the scheme.
20. However in this case, the outcome of this appeal would not affect the original planning permission and the ability for the appellant to provide 3 pitches on this site, together with a day room. This could still be delivered and accommodate the families on the site. This reduces the weight that the benefits of the day room as built provide to the planning balance. Consequently, notwithstanding the important considerations identified above, these matters do not outweigh the identified harm and the refusal of planning permission would be a proportionate response.
21. For the reasons given above, I conclude that the day room would not comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, and taking all other matters into account, the appeal should be dismissed.

David Wyborn

INSPECTOR

² Article 3(1) of the United Nations Convention on the Rights of the Child.