



Appeal Decision

Hearing Held on 2 February 2021

Site visit made on 4 February 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2021

Appeal Ref: APP/H1840/W/19/3242656

The Laurels, Evesham Road, Egdon, Worcester WR7 4QR

- 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 Nathan Smith against the decision of Wychavon District Council.
 - The application Ref 19/01118/CU, dated 14 May 2019, was refused by notice dated 16 August 2019.
 - The development proposed is extension of existing traveller site and re-location of two pitches and increase in pitches from four to eight and erection of amenity block.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the Council's decision notice, which differs from the description given on the planning application form. The main parties agreed to this description at the Hearing.
3. A Hearing scheduled for 7 October 2020 was postponed to enable consideration of further evidence submitted by the Council in respect of the supply of gypsy and traveller pitches. The parties have had the opportunity to consider this evidence and I have had regard to the comments raised.
4. It was requested that I visit a number of other sites in the area to assess, amongst other things, the relationship between the sites and services. I was able to do so as part of my visit.

Main Issues

5. The main issues are:
 - Highway Safety;
 - Whether the extended traveller site would be suitably located having regard to national and local policies;
 - Whether the extended traveller site would dominate the nearest settled community; and

- Whether any harm identified, including conflict with the development plan, would be outweighed by other considerations.

Reasons

Highway Safety

6. The appeal site is adjacent to the A44 Evesham Road, and I saw that this road was well-trafficked commensurate with its classification as an A Road. This extent of the highway is subject to the national speed limit, and I saw that traffic speeds along this road were relatively high in the vicinity of the site.
7. The existing access to the site is provided directly from Evesham Road. The appellant has proposed improvements to the access, including a set-back of the gates to enable two vehicles to turn into the site without projecting onto the highway so that the gates can be opened. The appellant also indicates that the width of the access is sufficient to enable vehicles to park side by side.
8. The proposed plans indicate a visibility splay of 2.4m by 150m. However, the Council's highways consultee has questioned whether there is sufficient evidence to assess the access visibility requirements. In particular, no information has been provided in respect of the 85th percentile traffic speeds, which should be used to inform visibility requirements.
9. The appellant submits that the Council has previously approved the access for the existing site. However, the proposal would represent a material intensification of the use of the site, with a subsequent increase in vehicle movements. The original approval for the site is also of some age and pre-dates the adopted development plan policies referred to in the Council's decision. On that basis, the Council's concerns in respect of a lack of evidence on this matter are well-founded.
10. I have considered whether it would be appropriate to require this evidence to be submitted by condition. However, there is no certainty that suitable visibility can be provided at the site access to make the development acceptable in planning terms, including in relation to the effect on land which is not under the appellant's control. On that basis, and taking a precautionary approach on a matter of public safety, I do not consider it would be appropriate to address this issue by condition.
11. It was indicated at the Hearing that if the appellant had been asked for this information then this would have been provided. However, the concerns in relation to the lack of evidence are clearly stated in the comments of the Highway Authority on the application, as well as in the Officer's delegated report.
12. I conclude that insufficient evidence has been provided to demonstrate that the proposal would not have an unacceptable impact on highway safety. The proposal would therefore conflict with the highway safety requirements of policies SWDP 4 and SWDP 21 of the South Worcestershire Development Plan 2016 (the Development Plan). The proposal would also conflict with the National Planning Policy Framework (the Framework) in respect of assessing the impact on highway safety. The proposal would also be contrary to the advice of the Council's Streetscape Design Guide 2018 in respect of providing suitable visibility.

Location

13. The appeal site is located remotely from shops and services. There are also no demarcated or lit footpaths leading from the site. On that basis, residents of the proposal would need to rely on the private vehicle to meet many of their everyday requirements, such as access to schools or shops. The proposal would therefore be contrary to policy SWDP 4 of the Development Plan which states that proposals should offer genuinely sustainable travel choices.
14. However, policy SWDP 17 of the Development Plan specifically relates to travellers. In particular, part C(x) of that policy refers to whether the site has reasonable access to health services, schools and employment. This criteria does not refer to that access being by sustainable means. This reflects paragraph 4j of the Planning Policy for Traveller Sites (PPTS) which indicates that one of the Government's aims in respect of traveller sites is to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure. Neither paragraph 4 nor any other part of the PPTS expressly requires accessibility to services and facilities by sustainable means, such as by public transport, as an aim of the PPTS. Although Policy H of the PPTS, at paragraph 25, states new traveller site development away from existing settlements should be very strictly limited, this is expressed in terms of the open countryside, rather than access to services by sustainable means.
15. As stated previously, the location of the site is such that the great majority of journeys to access services would be by the private vehicle. However, the distance to access facilities, for example in Worcester, would not be long and would be commonplace for residents of the existing site as well as other residents in this area.
16. Part C(i) of policy SWDP 17 refers to whether the site is within, or on the edge of, a town or a category 1, 2 or 3 settlement. The proposal would not strictly comply with this criteria. However, I have previously concluded that the proposal would provide reasonable access to the services and facilities provided by settlements of the type specified, including Worcester. The proposal would comply with part C(x) of policy SWDP 17, and within that context as well as the PPTS, I do not consider that the conflict with part C(i) would be sufficient to dismiss this appeal.
17. The appellant also refers to a number of other gypsy and traveller sites permitted by the Council, and I saw that many of these have similar characteristics in terms of access to services as the appeal site. Whilst I acknowledge that the supply of sites may have been different at the time of those decisions, in comparison the appeal site is not so unsustainably located as to warrant the refusal of planning permission.
18. Drawing the above together, the appeal site would not offer genuinely sustainable travel choices and would therefore conflict with policy SWDP 4 of the Development Plan. The proposal would also conflict with part C(i) of policy SWDP 17 as it would not be located on the edge of a specified form of settlement. However, the proposal would comply with the access requirements of part C(x) of policy SWDP 17 of the Development Plan and the PPTS. I am also mindful that the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. There are therefore material considerations that indicate that the proposal should be

determined other than in accordance with policy SWDP 4 and part C(i) of policy SWDP 17. On that basis, I conclude that the proposal would be suitably located having regard to national and local policies.

Effect on the Settled Community

19. The PPTS seeks to ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community.
20. The appeal site is located in an area of countryside, and the Council contends that the nearest settled community is the small settlement of Egdon. However, Egdon consists of a loose knit extent of ribbon development. With the exception of a public house which appears to rely on a wider catchment and passing traffic, this hamlet contains minimal if any facilities. The existing site and the appeal proposal would be of a self-contained nature located separately from many of the other properties which make up Egdon. Due to the scattered nature of Egdon and the appeal site's relationship to it, I do not consider that the proposal would lead a perception of dominance of the settled community in the area.
21. That said, to my mind, the nearest settled community in a distinct settlement is the village of White Ladies Aston. The appeal site is distinctly separate from this village and residents of the appeal proposal would be more likely to access services in settlements such as Worcester or Pershore, rather than relying on the use of the limited facilities in the village. Because of this relationship, I do not consider that the increase in population resulting from the proposal would dominate the nearest settled community.
22. Although there are limited facilities in the immediate area, I have previously concluded that the proposal would have suitable access to services in larger settlements in the area. Residents of the proposal would therefore be able to integrate into the wider community.
23. There is a dwelling directly adjacent to the appeal site. However, this is well screened from the existing site and the proposed extension. The dwelling is also served by a separate access from Evesham Road. The Council also considers that the impact on the privacy and amenity of residents of this property would be adequate. Within that context, I consider that the appeal proposal would not have an overdominant relationship with the nearest residential property.
24. I conclude that the increase in population resulting from the proposal would not dominate the nearest settled community. The proposal would therefore not conflict with policy SWDP 17 of the Development Plan and the PPTS with regards to the effect on the settled community and the scale of the proposal. The proposal would also not conflict with the Framework in respect of supporting strong, vibrant and healthy communities.

Other Considerations

25. The status of the Council's 5-year supply of pitches has varied over the course of the appeal. However, evidence submitted before the Hearing indicates that the Council is able to demonstrate a 5-year supply of sites. The appellant has been given the opportunity to comment on the matter of supply and has provided no substantive evidence to contradict the Council's position. That said, the supply of pitches is counted on a rolling basis, and the proposal would

make a material contribution to future supply. I therefore consider that the contribution to the supply of pitches is a factor that weighs in favour of the appeal.

26. It is common ground that the appellant and his brother qualify as travellers. It has also been indicated that the appeal proposal could accommodate for their extended family. However, the application has not been submitted on a personal basis and it is not proposed that personal occupancy should be controlled by condition. The personal circumstances of particular individuals or families does not therefore weigh in favour of the proposal.
27. In the consideration of this appeal I have taken into account the human rights of the appellant and his extended family. As the site is intended to be occupied by travellers this is also a protected characteristic for the purpose of the Public Sector Equality Duty which I have taken into account in determining this appeal. However, after having regard to all material considerations, I am satisfied that the aim of avoiding unacceptable harm to highway safety can only be adequately addressed by dismissal of the appeal. Interference with the human rights of the appellant, his family and potential occupants of the site is therefore necessary and proportionate.

Conclusion

28. Notwithstanding my conclusions in respect of the location of the proposal and the effect on the settled community, I conclude that it has not been demonstrated that the proposal would not have an unacceptable impact on highway safety. Taking a precautionary approach with regards to public safety, the proposal would conflict with the development plan and the Framework when read as a whole with regards to providing safe and suitable access. There are no material considerations which would outweigh the identified harm, including the conflict with the development plan.
29. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR

Appearances

FOR THE APPELLANT:

Rhys Sandbrook FRICS

R O Sandbrook Ltd

FOR THE COUNCIL:

Edward Simcox

Wychavon and Malvern Hills District Councils

Denise Duggan

Wychavon District Council

Nigel Gorski

Worcester County Council

Documents Received Following the Hearing (by request of the Inspector)

1. Location of petrol filling station and convenience store.
2. Suggested wording re. noise condition, and agreement from appellant.