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## Appeal Decision

Site visit made on 14 September 2021

**by Thomas Hatfield BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29<sup>th</sup> October 2021**

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**Appeal Ref: APP/T2405/W/21/3266786**

**Oak Tree Cottage, Hinckley Road, Aston Firs, Sapcote, Leicestershire, LE9 4LH**

- 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 Henry Johnson against the decision of Blaby District Council.
  - The application Ref 20/0410/FUL, dated 23 March 2020, was refused by notice dated 29 July 2020.
  - The development proposed is demolition of existing dwelling and change of use of land to use as a residential caravan site for the stationing of 3 No static caravans/mobile homes, including laying of hardstanding and alteration of access.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Fosse Villages Neighbourhood Plan was made on 17 June 2021 and now forms part of the development plan for the area. I have had regard to it on that basis. The Neighbourhood Plan was made prior to the deadline for the submission of final comments, and the appellant has therefore had the opportunity to comment on this matter through the appeal process.

### Main Issues

3. The main issues are:
  - (a) The effect of the development on protected bats;
  - (b) Whether the appeal site is in a suitable location for the development having regard to local and national planning policy; and
  - (c) Whether the development would be served by an appropriate water supply.

### Reasons

#### *Protected bats*

4. The appeal site comprises a detached dwelling and areas of hardstanding that is largely surrounded by existing dwellings and static caravans. It also accommodates an access route that serves mobile homes to the rear.
5. A series of Bat Emergence and Re-entry Surveys by Arbtech were submitted with the appeal. These surveys identified a day roost for a common pipistrelle

bat within the existing building. However, no mitigation is proposed, and instead the appellant states that details of mitigation/compensation will be included in the licence application to Natural England. This is a separate process that sits outside of the planning regime.

6. The development would replace the existing dwelling with 3 static caravans. These would be small single storey units with limited space around them. In these circumstances, it is unclear whether it would be possible to incorporate bat mitigation measures into the development itself. Moreover, it is unclear from the information before me whether the appellant would be able to install any mitigation on neighbouring land, and no potential measures have been suggested at this stage. It is therefore unclear whether this matter is capable of being satisfactorily addressed. In this regard, I note that Circular 06/2005 advises that *"it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted"* (my emphasis).
7. On the available evidence, I am not persuaded that the development would avoid negative impacts to protected bats using the site. The development would therefore be contrary to Policy CS19 of the Blaby Local Plan (Core Strategy) (2013), which seeks to protect habitats and biodiversity.

#### *Suitable location*

8. The appeal site is located within the open countryside for planning purposes and is approximately 2 kilometres from the edge of Sapcote, which is the nearest settlement within the District. Services and facilities in Hinckley and Burbage are approximately 3 kilometres away to the west. The route to each of these settlements is along the B4469, which is a relatively busy road that is subject to national speed limits.
9. Policy CS18 of the Blaby Local Plan (Core Strategy) (2013), and Policy DM2 of the Blaby Local Plan (Delivery) (2019), seek to restrict new development in the countryside subject to a limited number of exceptions. One such exception is for replacement dwellings where an existing habitable dwelling is located on the site that has recently been occupied as a main residence. In this case, however, there is little information before me to confirm whether the existing dwelling is habitable, or to substantiate when it was last occupied. Moreover, at the time of my site visit it was boarded up and appeared to be in poor condition. In these circumstances, and based on the information before me, I consider that the development would conflict with Policies CS18 and DM2.
10. Policy FV17 of the Fosse Villages Neighbourhood Plan (2021), relates specifically to the wider site at Aston Firs in which the appeal site is located. This policy states that *"proposals for new sites or the extension or intensification of existing sites at Aston Firs, whether for Gypsies and Travellers or other households, will not be supported"* (my emphasis). As the development proposes the intensification of an existing site, it would clearly be contrary to this policy.
11. Set against this, the appeal site comprises previously developed land that is largely surrounded by existing dwellings and static caravans. It is also heavily screened in views from the south by mature trees and planting and has little visibility from the open countryside. Accordingly, there would be no harm to the character and appearance of the countryside arising from the development.

In this regard, I consider it unnecessary for a landscape impact assessment to be provided. A number of representations submitted by neighbouring occupiers also refer to the detrimental effect that the site currently has on their living conditions, and the development would clearly be of some benefit in this regard. In accessibility terms, there is a bus stop near to the site with services to both Leicester and Burbage. Taken together, these considerations weigh significantly in favour of the development.

12. Whilst there is some conflict with the locational policies of the Blaby Local Plan (Core Strategy), the Blaby Local Plan (Delivery), and the Fosse Village Neighbourhood Plan, on balance, I consider that this conflict would be outweighed by the material considerations that apply in this case.

#### *Water supply*

13. The appeal site is currently occupied by a detached dwelling and is largely surrounded by existing dwellings and static caravans, which the appellant states are served by a mains water connection. In these circumstances, it seems highly unlikely that the development would not have a mains water connection available to it. Moreover, it is unclear from the information before me why the Council consider this matter to be of concern.
14. On the available evidence, I conclude that the development would be served by an appropriate water supply. It would therefore accord with Policy CS11 of the Blaby Local Plan (Core Strategy) (2013), which seeks to deliver the services and facilities required to meet the needs of the population.

#### **Other Matters**

15. It is not proposed to restrict the occupancy of the 3 static caravans to gypsies and travellers. The Government's Planning Policy for Traveller Sites is therefore not a material consideration in this case.
16. There is no dispute that the Council is able to demonstrate a 5 year supply of deliverable housing sites.

#### **Overall Balance and Conclusion**

17. As set out above, I consider that the conflict with the locational policies of the Blaby Local Plan (Core Strategy), Blaby Local Plan (Delivery), and the Fosse Village Neighbourhood Plan would be outweighed by other considerations in this case. Moreover, and based on the available evidence, I consider that the development would be served by an appropriate water supply. However, a bat roost is located within the existing building, and no mitigation is proposed in order to address this. Moreover, from the information before me, it is unclear whether it would be possible to address this matter. In these circumstances, I conclude that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR