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## Appeal Decision

Site visit made on 2 November 2021

**by David Murray BA (Hons) DMS MRTPI**

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

**Decision date: 03 February 2022**

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### **Appeal Ref: APP/Y3940/W/20/3260751**

#### **Trowbridge Lodge Park, Trowbridge, Wiltshire, BA14 6DP.**

- 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 a condition subject to which a previous planning permission was granted.
  - The appeal is made by Redlane Sites Ltd. against the decision of Wiltshire Council.
  - The application Ref. 19/08146/VAR, dated 24 October 2019, was refused by notice dated 8 April 2020.
  - The application sought planning permission for the use of land as a residential caravan site for human habitation without complying with a condition attached to the planning permission granted on appeal APP/F3925/A/05/1177084, dated 5 July 2006, so as to allow occupation by 139 caravans.
  - The condition in dispute is (unnumbered) which states that: No more than 133 caravans shall be placed on the site, as defined by the red line on the submitted application plan bearing the number "DMS Reference 1326".
  - The reasons given for the condition are set out in the overall appeal decision but in summary appear to be in order to limit the site coverage by caravans so as to protect the landscaping of the site and retain trees protected by a Tree Preservation Order.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the use of land as a residential caravan site for human habitation at Trowbridge Lodge Park, Trowbridge, Wiltshire, BA14 6DP, in accordance with the application Ref. 19/08146/VAR, dated 24 October 2019, without complying with the (unnumbered) condition which limits the number of caravans to 133 caravans, as set out in planning permission Ref. APP/F3925/A/05/1177084 granted on the 5 July 2006 by the Secretary of State, but otherwise subject to the conditions previously imposed, so far as the same are still subsisting, and the new conditions set out in the attached Schedule.

### **Preliminary matters**

2. At the request of the Council I sought advice from Natural England (NE) on the effect of the development proposed on bats particularly those associated with the Bath and Bradford on Avon Bats Special Area of Conservation (SAC). The appellant's agent was given the opportunity to comment on the advice

that EN gave (by letters dated 5 and 17 January 2022 respectively) and I have taken all of these representations into account.

### **Main Issues**

3. The main issues are the effect of the increase in the number of caravans on:
- Existing trees of landscape and ecological value and biodiversity;
  - The living conditions of existing and future caravan occupiers; and
  - The effect on parking provision.

### **Reasons**

#### *Background*

4. Trowbridge Lodge Park lies on a southern edge of Trowbridge within the identified settlement limits of the town and comprises a long established park of about 6 ha in extent for permanently occupied residential caravans. The site was originally well-treed and a Tree Preservation Order (TPO) related to the whole site although this was modified by the Council in 2018 to only protect the trees in a defined zone around the perimeter of the park. It is apparent that this was done because several park homes had experienced structural damage. It is also relevant that the 2006 appeal decision mentioned in the banner above where the limit of 133 caravans was applied, related to the site before the modified TPO. As the planning status of the park is as a residential caravan site, a use rather than operational development, there is no planning control over the layout of the caravans within the park other than the overall number being regulated by the condition and the limitations imposed by the TPO on part of the site.
5. It is now proposed to increase the total number to 139 caravans (park homes). The appellant says that as the older units come up for replacement, the opportunity is taken to rationalise the layout to see where modern units can fit in better.
6. An illustrative plan has been submitted to show how 6 new units could be sited in a part of the site cleared of old bases and which at the time of my visit was mainly open (the inset site). The provision of these 6 units would bring the total up to 139 caravans. The agent says there were previously 8 small units on or around this site, but the net increase has already been accommodated elsewhere around the other parts of the site.
7. Given this background, the main issues need to be considered in the context of whether it is reasonable on planning grounds to increase the total number of caravans within the whole site to 139 units by having particular regard to the detailed inset layout plan – drawing 180 160—P-002.

#### *The effect on trees and bats*

8. The effect on trees is concerned with two main aspects: the direct effect on the trees and secondly the effect on their ecological value as a habitat for bats.

9. In terms of the trees themselves, at the visit I noted the trees around the perimeter of the inset site which appear to be within the TPO zone. These are generally as shown on the layout of the inset area. Given that the structures do not need the foundations of permanent dwellings I am satisfied that the position of the units proposed would not directly affect the relevant root protection area or the trees themselves, subject to the routing of services. Such details could be addressed by conditions as the appellant suggests. In terms of the wider impact, the site lies to the south of and adjoins a suburban part of Trowbridge and the increase in the number of caravans through the development of this inset site would have little effect on the wider landscape/townscape.
10. In relation to the effect on bats, the advice from NE sets out that the site lies in a landscape known to be utilised by bats associated with the Bath and Bradford on Avon Bats Special Area of Conservation (SAC). The SAC comprises a series of underground sites which support a hibernating population of Bechsteins, greater and lesser horseshoe bats and the nearest habitat site is some 7.5km from the appeal site. EA advise that studies show that there is possibly a functional linkage between woodlands in the Trowbridge area and the SAC and that impact on the bats can arise through the removal of trees or an increase in light levels in areas previously used for foraging.
11. In terms of the appeal site, NE says that in the absence of local bat surveys a precautionary approach has to be undertaken to its assessment. Within this context NE advises that the area around the southern boundary of the appeal site is the most sensitive to increases in light spillage and impacts to woodland and understorey, however, should the additional caravans be placed to the northern element of the site, NE expect a very low likelihood of impacts to the SAC arising.
12. The inset element lies in the north-west corner of the overall caravan site and in part abuts the residential development along Green Lane and Amouracre and is away from the most bat sensitive parts of the site around the southern boundary. In the inset area the presence of houses close to the north was discernible at my site visit and as stated above the proposal does not involve the loss of trees in this area.
13. On the specialist evidence put to me I am satisfied that the proposed layout and use of 6 residential caravans in the inset area would be very unlikely to have a significant effect on the well-being of the bat population supported in the SAC alone or in combination with other plans/projects and an Appropriate Assessment is not needed.

*The effect on living conditions*

14. The previous inspector considered the siting of the caravans in terms of the effect on living conditions as this was a legitimate planning matter separate to the conditions on a site licence and the required spacing standards. Nevertheless, it would not be appropriate to apply general housing layout standards to this caravan site.
15. In terms of the inset area the six caravans proposed have a relatively spacious juxtaposition, with 4 sited around a short cul de sac from the main

estate road. Adjacent existing caravans tend to be sited end-on to the proposed units rather than directly facing each other. Moreover, there was space for screen planting around and between caravans which could help limit overlooking and provide some privacy. I am satisfied that the layout proposed in this area will provide reasonable living conditions for the occupiers consistent with the rest of the main site.

#### *Parking provision*

16. At the site visit I noted that throughout the main site parking spaces tended to be laid out adjoining each caravan and there was visitor and other parking areas at the site office. There was no evidence of casual parking on the main estate road. The proposal for the inset site includes two parking spaces per caravan and this is appropriate provision for the nature of this development.

#### *Conclusions on layout*

17. Bringing these aspects together I find that the illustrated scheme to site 6 mobile homes on the inset site would not be likely to affect existing trees (subject to a condition on service routing) and would be laid out in a manner which would provide reasonable living conditions for the future occupiers and existing neighbouring units and would have appropriate car parking provision. The siting of these units on the inset site would also be very unlikely to have an adverse effect on the well-being of bats. I find that the scheme put forward meets the requirements of Core Policy 57 of the Wiltshire Core Strategy in terms of ensuring a high quality design appropriate for the area and retaining natural features on the site; Policy 50 in terms of maintaining the ecological value of the area; and Policy 64 by having adequate but not excessive parking provision for these private residential units.

#### *Other matters*

18. Some existing residents of the caravan park site raise objection to the expansion of the numbers of caravans because of concerns about the infrastructure of the whole site at the moment, particularly the capacity of the foul sewerage system; the repair of estate roads; disruptions to electricity supply; together with the costs of maintenance and repairs.
19. However, there is no clear technical evidence before me, including from the statutory drainage bodies, that the existing sewerage system does not have adequate capacity to accommodate the extra units sought. Other aspects raised are mostly private matters between a landlord and tenant beyond the scope of planning control, rather than planning aspects considered in the public interest, and therefore I have not been able to give these objections much weight.

#### *Planning balance*

20. On the main issues I have found that the proposal to increase the number of caravans on the site from 133 to 139 by in particular the siting of 6 vans in the inset site, would not result in the loss of trees, including those protected by a preservation order. The additional units can be sited in a part of the site adjacent to permanent housing and away from the most sensitive site area in terms of bat foraging. The layout put forward would also ensure reasonable

living conditions and parking provision. In this context I have found that the scheme put forward meets the relevant parts of the development plan and the other considerations that arise do not outweigh this.

21. I recognise that the proposal does not address the whole site in great detail as the Council wish but given the long established nature of the use and the way in which the appellant has demonstrated that a further six units can now be properly accommodated on the appeal site, I consider that such comprehensive detail over the whole site is not necessary or proportionate. On the specific planning circumstances that apply I conclude that the total number of caravans can reasonably be increased to 139. The appeal to vary the condition should therefore be allowed.

### *Conditions*

22. In terms of conditions the Council recommends seven which I will consider under the same numbering. No's 1, 2 and 3 in effect restrict the maximum number of caravans to 133 until various requirements are met, which include the submission of a masterplan for the whole site and comprehensive details of the position of every tree, car park layouts, access and footways, position of routes of services and definition and density of residential areas. However, these requirements over the whole site are excessive and not proportionate to the extent of the proposal and the nature of the use. I will therefore not impose these conditions in the format sought.
23. However, it is reasonable to restrict the increase in overall number until a plan has been submitted and agreed to show the trees and root protection areas and services routing for the inset area and further soft landscaping in the interests of maintaining the appearance of the site and the living conditions of the occupiers and I will impose such a condition.
24. In terms of condition 4 I agree that it is reasonable to use the up to date plan of the extent of the site and this condition shall be imposed.
25. Recommended Condition 5 relates to the submission of an Arboricultural Method Statement regarding any ground works within 15m of a protected tree. As drafted the condition relates to the whole site rather than just the inset area, but this is reasonable in the circumstances of the case as it complements the controls that exist over work that may affect the well-being of protected trees. Moreover, the protection of TPO trees was one of the reasons put forward by the previous Inspector for the imposition of the maximum number of 133 caravans. It therefore reasonably relates to the whole site and I will impose this condition while varying the one concerning the maximum number of caravans.
26. Recommended condition 6 seeks to control external lighting over the whole site by requiring the submission and agreement of a detailed scheme of lighting however such a restriction over the whole site is excessive and not proportionate to the development proposed. In terms of the inset area where the 6 new caravans are proposed, this lies adjacent to an established housing area and a restriction on external lighting here is not justified. I will therefore not impose this condition.

27. Finally condition 7 relates to the implementation of the approved landscaping scheme. This is reasonable and necessary and I will impose it.

**Conclusions**

28. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the condition related to 133 caravans and substitute others including one raising the maximum number of caravans to 139.

*David Murray*

INSPECTOR

### **Schedule of additional Conditions**

1. No more than 139 caravans shall be placed on the site, as defined by the red line on the submitted location plan Reference 180507-E\_001.
2. No more than 133 caravans or any operational development associated thereto shall be placed on site until a scheme of soft landscaping for the inset area shown on plan 180160-P-002 has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-
  - The location, current canopy spread, root protection area of trees within the area;
  - The routing of all services to each caravan.
  - A specification of the type and location of new tree and hedge planting within each caravan 'plot'.
3. The soft landscaping approved in the scheme required by condition 2 above shall be carried out in the first planting and seeding season following their approval. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.
4. An Arboricultural Method Statement (AMS) shall be submitted to the council prior to any ground works commencing when working within 15m of any protected trees to ensure that the trees are not damaged by machinery. Where the ground works involve a new or replacement base the required AMS should be accompanied by details of foundation design.

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