



Appeal Decision

Site visit made on 1 March 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2022

Appeal Ref: APP/Q3305/W/21/3277711

**Land On The South East Side of Vinney Lane, Blatchbridge, Frome
BA11 5BN**

- 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 S Hughes against the decision of Mendip District Council.
 - The application Ref 2020/2009/FUL, dated 6 October 2020, was refused by notice dated 21 May 2021.
 - The development proposed is change of use of land to 1 No Gypsy pitch and associated works including 1 No mobile home, 1 No touring caravan, 1 No day room, septic tank and hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to 1 No Gypsy pitch and associated works including 1 No mobile home, 1 No touring caravan, 1 No day room, septic tank and hardstanding at Land on the South East Side of Vinney Lane, Blatchbridge, Frome BA11 5BN in accordance with the terms of the application, Ref 2020/2009/FUL, dated 6 October 2020, subject to the conditions set out in the schedule at the end of this decision.

Applications for costs

2. An application for costs has been made by Mr S Hughes against Mendip District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. On my visit I saw the site was occupied by a single touring caravan, a timber building and various other smaller structures and vehicles. Also, the site was largely surfaced with chippings and there was a fence along the boundaries and a gate at the access. The features were not entirely laid out as shown on the appeal drawings and the extent of hard surfacing was larger than indicated. Nevertheless, it appears the development has partially commenced. For clarity purposes, I confirm my assessment is based on the appeal drawings.

Main Issues

4. The Council refused planning permission for a single reason that relates to the means of access to the development. However, having regard to the range of matters raised in the appeal submissions, I consider the main issues are (i) whether there would be suitable means of access for emergency and larger vehicles to serve the development, (ii) whether the development would be in a suitable location having regard to access to services, (iii) the effect of the

development on the character and appearance of the area, (iv) drainage and flood risk issues, and (v) considerations in favour of the proposal.

Reasons

Access for emergency and larger vehicles

5. The development would be served by an access off Vinney Lane, a single vehicle width carriageway with hedges on both sides. This lane joins the A361 a short distance to the north of the site. Vinney Lane is quite straight between the main road and the site entrance, although this stretch of the road is gated. Also, the development can be accessed along Vinney Lane from Bull's Quarries Road to the south.
6. It is likely the development would generate vehicular movements, although these are likely to be small in number as only a single pitch would be provided. Furthermore, it is probable that trips by emergency and larger vehicles would be infrequent given the residential nature of the site.
7. The appellant has not provided any swept path analysis plans but photographs indicate the lane can accommodate a small fire appliance and a truck. As such, it appears that some types of emergency vehicles and vehicles larger than a car would be able to access the development from the direction of Bull's Quarries Road. Also, as the gate is set away from the junction, there is no obstruction that would prevent any vehicle in an emergency entering Vinney Lane from the A391. Vehicle users could then park on the lane and walk around the gate or potentially unlock or break open the gate to access the site.
8. Parts of Vinney Lane have potholes and areas of worn surfacing and photographic evidence shows that hedge growth has at times reduced the width of the carriageway. Even so, the lane is a public highway with no weight, width or height restrictions. As such, it is reasonable to expect it would be maintained to an appropriate condition to allow the passage of vehicles.
9. Reference is made to building regulation requirements that relate to emergency vehicle access. The appellant disputes whether these are relevant in this case as they only apply to a dwelling house and to the site of any works. In any event, it is not my role in the determination of this planning appeal to decide whether the development would be contrary to any non-planning regulatory control. Also, there is no planning policy requirement for the development to comply with building regulations in these regards.
10. Evidence provided by Selwood Parish Council shows the lane is generally narrow with limited opportunities to pass. Bends in the carriageway close to the Bull's Quarries Road junction would make it particularly tight for some larger vehicles and I note the referred to incident when a lorry became stuck at this point. Nonetheless, the development would have direct access onto a public highway with potential for reasonable sized vehicles to travel to or near to the site from 2 directions.
11. Therefore, I conclude there would be a suitable means of access for emergency and larger vehicles to serve the development. In these regards, it would accord with policy DP9 of the Mendip District Local Plan Part 1 2014 (LP). Amongst other matters, this supports development which provides satisfactory access by all means of travel including for emergency vehicles.

Suitability of location

12. The site lies in open countryside and so its location would not accord with LP Core Policy 1, which generally looks to direct development to towns and villages. However, LP policy DP15 specifically relates to Gypsy and Travellers' sites and it does not preclude such developments in the open countryside. Instead, it looks to ensure accommodation has access by a range of transport modes to essential local services. To a degree, the LP is consistent with the Planning Policy for Traveller Sites (PPTS) which aims to provide sites from which occupants can access education, health, welfare and employment infrastructure.
13. The development would be a short drive or cycle ride away from Frome where there are primary and secondary schools, health services and a range of facilities. There are no public transport services that would provide a travel option to Frome and facilities are beyond a reasonable walking distance away from the site. However, paragraph 105 of the National Planning Policy Framework (the Framework) recognises the opportunity to use sustainable modes of transport varies between urban and rural areas. Also, it is to be expected that occupants of Gypsy and Travellers' sites would have less opportunity to travel by foot or public transport as they are not precluded in the countryside under the terms of the PPTS. As such, the short car or cycle journeys to Frome adds in favour of the development
14. Having regard to all relevant matters, I conclude the development would be in a suitable location. It would not accord with LP Core Policy 1 but the overriding factor is that it would generally comply with LP policy DP15 and the PPTS in respect of its accessibility to services.

Character and appearance

15. The site forms part of a larger field with trees and hedges on its boundaries. A public footpath runs along the northern edge of the field and between the site and the River Frome that runs along the eastern field boundary. The surrounding area mainly consists of fields and so it has a pastoral nature. However, it is significantly influenced by the A391 and traffic noise and it is not specifically designated for its landscape quality.
16. The provision of a mobile home, a touring caravan, a day room, fencing, hardstanding as well as associated parking and paraphernalia would plainly give the site a more developed and domestic character. However, the plot forms only a small part of the field, the majority of which would remain as pasture. Moreover, it is not uncommon to see caravans in the countryside and the proposed day room would appear as a small and simple ancillary building.
17. From outside the field, the development would be mainly viewed through the screening effect of the field boundary vegetation. The access gates are visible from Vinney Lane, but these are set back and would help prevent views of the interior of the site from the road. Accordingly, the development would be noticeable but it would not be visually prominent from the highway.
18. The site and the various features would be obvious from the public footpath in the field, from where it would be seen as an erosion of open countryside. However, the visual impact would be fairly localised. Also, from the right of way

the development would be viewed with the remaining open paddock in the foreground and with a backdrop of the field boundary trees and hedges.

19. In summary, the development would cause a minor loss of the pastoral nature of the locality and to a limited degree it would harm its visual qualities. However, in light of its small scale and the particular characteristics of the site and the local environment, I conclude the development would not cause unacceptable harm to the character and appearance of the area. Consequently, it would not have a significant adverse impact on the landscape and so in these respects it would accord with LP policy DP15.

Drainage and flood issues

20. The River Frome runs along the eastern edge of the field but Environment Agency (EA) plans indicate the site is outside any area identified as being at high or medium risk of flooding due to the watercourse. As such, the development would be in an area of lowest risk of fluvial flooding and so in these respects it would comply with the Framework's flood sequential test.
21. However, a submitted EA plan shows the site lies in an area of low risk of surface water flooding whereas other areas are identified as being at very low risk. Accordingly, the development would not be in an area with the lowest risk of pluvial flooding.
22. LP Development Policy 23 and the Framework look to resist development on sites subject to flood risk where there are reasonably available and appropriate sites at a lower probability of flooding. The appellant contends that there is a recognised shortage of Gypsy and Travellers' sites in general and no alternative sites for the development have been identified by any party. In the absence of any evidence to the contrary, I find that there are no reasonably available alternative sites and so the sequential test is complied with.
23. The Council's Land Drainage Engineer raises no objections to the development subject to the provision of a surface water drainage system. This could be reasonably secured by a planning condition and would help ensure the development is resilient to flooding and that surface water is dealt with appropriately without exacerbating flood risk elsewhere. The provision of Gypsy and Travellers' accommodation has wider sustainability benefits in terms of ensuring a sufficient number and range of homes can be provided to meet needs. As such, the Framework's flood risk exception test is passed.
24. Limited information has been submitted on the septic tank but the Land Drainage Engineer advises that this issue could be reasonably dealt with through the imposition of a planning condition. I find no reason to disagree with this approach. In light of the separation distance between the site and the watercourse, there are no substantive grounds to find that the foul water drainage system would lead to river pollution.
25. Concern is raised that the development would potentially frustrate plans to introduce natural flood management measures to reduce flood risk elsewhere. However, no planning policy has been highlighted that allocates the site for such measures and no specific and firm proposal has been identified. Accordingly, such concerns attract little weight in my assessment of this issue.

26. Therefore, I conclude the development would be acceptable in terms of drainage and flood risk issues. In these regards, it would accord with LP policy DP15 and Development Policy 23 as well as the Framework.

Other issues

27. Several other concerns have been raised. The development would not prejudice highway traffic safety as it would generate only a small number of trips and Vinney Lane experiences a very low level of vehicular movement. Visibility splays as indicated on the appeal plans would ensure a safe egress from the site and could be secured by a planning condition.
28. Vinney Lane has no pavements and so vehicles travelling to and from the site would share the same surface as pedestrians. However, the development would cause only a minor increase in traffic and speeds would be low due to the nature of the road. Also, verges provide a retreat for pedestrians at many places along the lane. Consequently, the site would not lead to an unsafe environment for pedestrians. Moreover, it would be set away from the footpath in the field and so it would cause no obstruction to its users.
29. The development would be a sufficient distance from any dwelling so as to avoid unacceptable noise or odour effects on the living conditions of any residents. As a single pitch site, it would not dominate any settled community.
30. As it is currently occupied, it is apparent that appropriate water and electricity services can be provided to the site. Also, the plot is large enough to allow the proper storage of waste. The development is far enough away from an existing poultry farm to avoid odour problems for occupants. Moreover, the Council suggests that a section of acoustic fencing would ensure traffic noise associated with the A391 does not prevent acceptable living conditions for the occupiers. The acoustic fencing could be reasonably secured by a planning condition.
31. The Council has advised that the development would not be near any site designated for its nature conservation importance or any associated catchment area. There is no substantive evidence to show the site accommodated protected species or had any particular ecological value before the development commenced. Also, the separation between the site and the river would ensure the development does not unduly affect any wildlife associated with the watercourse, by virtue of noise or for any other reason.
32. I have considered the appeal based on the particular nature of the development and its surroundings. It does not follow that a decision to grant planning permission would set a precedent for other schemes. Future proposals would need to be considered in light of the relevant factors at the time.
33. Claims of various inaccuracies in the application and appeal submissions have been made. I have taken these into account but they fail to significantly influence my views on the development. In the absence of firm reasons to dismiss the appeal on any of the above grounds, the concerns raised do not affect my overall conclusions.

Considerations in favour of the proposal

34. LP policy DP15 states that a Site Allocations document will allocate land to meet the need for Gypsy and Travellers' sites as identified in the latest Gypsy

and Traveller Accommodation Assessment. No such Site Allocation document has been adopted and its production has been considerably delayed.

35. Moreover, supporting text to LP policy DP15 refers to an Accommodation Assessment dated 2013 which identifies the need for 141 residential pitches within Mendip between 2010 and 2029. The appellant claims that 21 pitches have been granted planning permission since 2013, meaning a significant shortfall in overall provision. The Council accepts that it has failed to meet the PPTS requirement to identify and update annually a 5 years' worth of sites.
36. In light of this evidence of a considerable and unmet need for additional pitches and the PPTS aim to promote more private site provision, significant weight is attached to the development's contribution towards the supply of Gypsy and Travellers' sites. The appellant suggests a planning condition that would limit occupation to persons that meet the definition of Gypsies and Travellers as set out in the PPTS, so securing the contribution towards pitch provision.
37. I am provided with little information on the current occupants of the site or the consequences for them if planning permission was refused. As such, there is no significant personal circumstances case before me in favour of the development. Nevertheless, this has no effect on the identified benefit in terms of addressing the general need for Gypsy and Travellers' sites.

Planning Balance

38. I have found the development would be served by an appropriate access for emergency and larger vehicles. Also, it would be in a suitable location having regard to accessibility to services. It would not unacceptably harm the character and appearance of the area, it would accord with policies seeking to minimise flood risk and it would incorporate appropriate drainage facilities. Overall, it would comply with the LP policies when read as a whole.
39. Furthermore, the development would increase the supply of pitches at a time when there is a recognised shortage in the provision of Gypsy and Travellers' sites. This benefit adds significant weight in support of the scheme. Consequently, I consider the appeal should be allowed.
40. The proposal seeks permanent planning permission with no restrictions on occupancy to particular individuals. For the reasons given and in light of its contribution towards the general need for pitches, the development would be acceptable on this basis. As such, there is no need for conditions that would allow only a temporary use or that restrict occupancy to named people.

Conditions

41. I have considered the conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording for precision reasons.
42. As it is partly retrospective, there is no need for a condition that sets a deadline for the commencement of development. However, a condition setting out the approved plans is imposed for reasons of clarity. This only includes reference to those submitted plans which show the development.
43. For the reasons as set out previously, there is a need for surface and foul water drainage details to be submitted, approved and implemented. To ensure a

satisfactory living environment, a condition in respect of acoustic fencing is also needed. The level of detail on the proposed fencing before me is limited and so such a condition will require the submission and approval of further information. As the development has commenced, the condition requiring the submission of these details will need to be worded in such a way that the use should cease in the event of any failure to comply with the terms of the condition.

44. To ensure a satisfactory appearance and an acceptable effect on the character of the area, a condition is needed that requires the implementation of hard and soft landscape works as shown on the appeal plans. Also, to ensure a safe vehicular egress from the development, a condition is imposed that requires visibility splays to be provided and maintained. Again, these conditions have been amended to take into account the development has commenced. In the interests of highway safety, a condition is needed to ensure the parking and turning areas as shown on the plans are retained for such uses.
45. It is necessary and fundamental to the acceptability of the proposal to impose a condition to ensure the development is occupied by people that meet the PPTS definition of Gypsies and Travellers. To prevent harm to the character and visual qualities of the area, it is necessary to impose a condition that limits the number of caravans on the site at any one time. The description of development includes no reference to commercial activities and so a condition to prevent such uses is unnecessary as planning permission would be needed in any event. However, as the description of development makes no reference to residential use, a condition is necessary to specify this, in the interests of clarity.

Conclusion

46. For the reasons given above, I conclude that the appeal should be allowed.

Jonathan Edwards

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 18069/02B, 18069/03, SH18-SLP, SH19-VIS.
- 2) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision (a) a scheme for the means of foul and surface water drainage of the site, and (b) details of acoustic fencing, shall have been submitted for the written approval of the local planning authority. The scheme/details shall include a timetable for the complete installation of the drainage systems and the acoustic fencing as well as how the drainage systems are to be managed.

- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the drainage scheme or the acoustic fencing details or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted drainage scheme shall have been approved by the Secretary of State.
- iv) The approved drainage scheme and acoustic fencing details shall have been carried out/installed in accordance with the approved timetable.

Upon implementation of the approved drainage scheme and acoustic fencing specified in this condition, they shall thereafter be retained and managed in accordance with the approved details. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Within 6 months of the date of this decision, all hard and soft landscape works as shown on the approved plans shall be carried out. Upon the hard and soft landscape works being carried out they shall thereafter be retained.
- 4) Within 3 months of the date of this decision, splays that include no obstruction to visibility greater than 900 millimetres above the adjoining road level shall be provided within the area measured 2.4 metres back from the carriageway edge and 23 metres either side of the centre of the access to the development. Upon the visibility splays being provided they shall thereafter be maintained at all times with no obstruction to visibility greater than 900 millimetres above the adjoining road level.
- 5) The parking and turning areas as shown on the approved plans shall be kept clear of obstructions and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.
- 6) The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 7) There shall be no more than one pitch on the site and no more than 2 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended) shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 8) The site shall be used for residential purposes as one gypsy pitch by the siting of one mobile home and one touring caravan and for no other purpose.