



Appeal Decision

Hearing held on 10 May 2022

Site visit made on 10 May 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2022

Appeal Ref: APP/J3720/W/20/3263984

Land adjacent to Greenways, Church Lane, Temple Grafton Warwickshire

- 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 Richard Birch against the decision of Stratford-on-Avon District Council.
 - The application Ref 20/00139/FUL, dated 15 January 2020, was refused by notice dated 23 July 2020.
 - The development proposed is use of land for the stationing of caravans for residential purposes for 1 No. Gypsy pitch, with two caravans (one mobile home and one touring caravan), together with the formation of hardstanding and utility/day room ancillary to that use and creation of a new access (existing to be closed).
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Decision

1. The appeal is allowed and planning permission is granted for the use of the land for the stationing of caravans for residential purposes for 1 No. Gypsy pitch, with two caravans (one mobile home and one touring caravan), together with the formation of hardstanding and utility/day room ancillary to that use and creation of a new access (existing to be closed) at Land adjacent to Greenways, Church Lane, Temple Grafton, Warwickshire in accordance with the terms of the application, Ref 20/00139/FUL, dated 15 January 2020, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The appeal site mainly comprises the northeast corner of a field, owned by the appellant, adjacent to Greenways. From evidence provided shortly before the hearing, and from my site visit, it was clear that development had taken place on the field including the use of the land for the stationing of a static caravan and a few touring caravans, removal of topsoil, provision of a gravel surface and the provision of two underground tanks to serve toilets. This development had been undertaken by the appellant and amounts to intentional unauthorised development. However, even if some of those works are on the appeal site and constitute the commencement of the development subject of this appeal, they are limited in their scale and so I give little weight to this consideration.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the area including the Arden Special Landscape Area; and if that effect is unacceptably harmful, whether any other considerations outweigh that harm.

Reasons

Character and appearance

4. The appeal site sits within a larger field owned by the appellant. Although there is no defined development boundary to Temple Grafton, the adjacent property at Greenways is contiguous with built form in the village and its contrast with the generally open character of the appellant's field means it signifies the western edge of the village. The next settlement to the west is Ardens Grafton. This also has no defined boundary but is separated from Temple Grafton by some fields, including that owned by the appellant. The openness of the site and its function as part of the undeveloped gap between the two settlements contributes strongly to the character of the area.
5. Although the Ardens Grafton Conservation Area Review (1996/97) states that the gap between the two villages should remain undeveloped, there is no development plan policy which specifically refers to a need for gaps between villages to be maintained. Nonetheless, policy CS.5 of the Core Strategy (2016) seeks to maintain landscape character and quality by, among other things, avoiding detrimental effects on features that make a significant contribution to the setting of a settlement. I consider this gap between the eastern reaches of Ardens Grafton at Loughlans Barn and the equestrian buildings opposite, and the western edge of Temple Grafton at Greenways, is a significant feature. Although the development would not be large scale, the gap is not excessive and consequently the reduction of the gap resulting from the development would be harmful to this significant feature. Indeed, it could be seen that, cumulatively, it would not take many developments of the size proposed to reduce the gap to a point where its significance would be weakened. Furthermore, the western boundary of Greenways currently provides a strong visual boundary to Temple Grafton and, by failing to provide a comparably strong visual boundary, the development would weaken the defined edge of the village, further weakening the significance of the gap.
6. The site is at the southern extent of the Arden Special Landscape Area (SLA). The Council's Special Landscape Area Study (2012) identifies the key qualities of the Arden SLA and also refers to the Warwickshire Landscape Guidelines (1993) (WLG). The WLG identifies a settlement pattern of small nucleated villages as a characteristic feature within the Vale Orchard Belt of the Avon Valley regional character area, within which the site is located. This reinforces the value of the gap between the two nucleated settlements and so supports its retention.
7. A public right of way (SD10A) runs along the northern edge of the appellant's land. There is a hedge along the edge of the path which acts as a close and thick visual screen and would prevent most views of the proposal. From positions further west on the path, and from the north/south footpath (SD10), where the land is higher, greater views of the site are possible. From here the hedge along the western side of the appellant's field would most likely prevent views of the development other than the roof of the dayroom. Indeed, the existing caravans on the field were not visible from this point and so those proposed would also not be likely to be visible, despite being on slightly higher land. Nonetheless, any view of the development, such as the roof of the dayroom, would represent a visual extension of built form into the gap to Ardens Grafton.

8. There is a tall hedge along the roadside which restricts views towards the site from Church Lane. Indeed views are only readily available through the existing access. This would be closed off and a new access created. Depending on the amount of landscaping that may be provided around the site, some views of the development may be possible through the proposed access. A view of the development from here would also signify a reduction of the gap to Ardens Grafton.
9. Strong hedgerows are a key quality of the SLA as identified in the SLA study. With respect to the hedgerow alongside Church Lane, the removal of a section to facilitate the access and the planting of a replacement section at the existing access would result in minimal net loss of hedgerow. Also the tree in the hedgerow would not seem to be close to the position of the new access. This key characteristic of the SLA would therefore be maintained. However by re-positioning the access, the length of unbroken hedge between Temple Grafton and Ardens Grafton would be reduced. This would be a further indication of the reduced gap between the two settlements.
10. The SLA study also states that buildings of timber frames and brick, and occasionally sandstone or Blue Lias limestone, are characteristic features. The development would clearly not reflect this. However, there is an acceptance in Core Strategy policy CS.21 that this area is a preferred broad area for gypsy and traveller provision which, by its nature, would never be able to reflect this characteristic of the SLA. I also consider that the simple form and limited scale of the dayroom would mean it would not be inharmonious with nearby built form.
11. The Council also refer to the loss of the rectilinear field shape, which is a key quality of the SLA. However the appellant's field is not strictly rectilinear, and in any case the WLG identifies a landscape of poorly defined fields. The loss of the field's shape would not, in itself, detract from the local character.
12. In summary, the reduction of the gap to Ardens Grafton would unacceptably harm the character and appearance of the area and the Arden SLA. The development would therefore conflict with policy CS.5, as set out above, CS.9 which also aims to ensure the character of the locality is maintained, and CS.12 which specifically seeks to protect the landscape quality of SLAs. It would also conflict with part (2) of policy CS.21 which states that development should not compromise the objectives of a SLA.

Other considerations

13. It is agreed between the parties that there is currently an unmet need for gypsy and traveller pitches. Both parties refer to the Council's Gypsy and Traveller Accommodation Assessment (2019) which identified a need for 28¹ pitches in the period 2019-24. The Council advise that since the time of that assessment only one pitch has been provided. The only public site in the District is full, as is the only private site that is not occupied by a single family group. Indeed the private site at Croft Lane in Temple Grafton is occupied by one extended family and a current application to enlarge that site is to cater for their growing family.

¹ For those households meeting the definition of a Gypsy or Traveller in the Planning Policy for Traveller Sites (2015) (PPTS)

14. The appellant's own experience is indicative of this lack of availability and it was explained at the hearing that they were doubling up on their previous site in Pershore, which has four pitches, hence the need to move onto their own site.
15. The Council advised that the South Warwickshire Local Plan is being progressed and that this will allocate gypsy and traveller sites. This is due to be adopted in June 2025. As such, the Council suggested that were permission to be granted, a temporary permission for three years would suffice as although the Local Plan may not be adopted three years from now, it would be well advanced and sites to accommodate the appellant would have been identified. However, assuming the timetable for the progression of the Local Plan does not slip, it is fair to allow the appellant time to react to its adoption instead of pre-empting it. Furthermore, the allocated sites may not be immediately available at the point of adoption. As such a slightly longer permission would be more appropriate in order to allow for some flexibility and I consider a permission for four years would be reasonable.
16. Evidence was provided by local residents which demonstrated that the appellants had, in recent years, bought and developed other properties in the local area, including in Welford-on-Avon and Pershore, and had provided other addresses in the area as contact addresses. However the appellant explained that they often buy land, undertake building work and then sell the property and therefore these sites are not available to them. They also explained that the other addresses are needed for administrative purposes. I consider that this is probable and the documentation provided does not demonstrate that the appellant has alternative property which they could reside on. It also does not suggest that the appellant's family would not meet the PPTS definition of a gypsy or traveller.
17. Consequently, I am satisfied that the appellant's family do meet the PPTS definition of gypsies and travellers. In the absence of a sufficient supply of gypsy and traveller sites in the District or alternative sites available to the appellant in the near future, the use of this site to provide accommodation for the appellant carries substantial weight.

Other matters

18. A number of other issues were raised by local residents. I have carefully considered these below.

Flooding

19. The appellant's report on flooding shows that, based on Environment Agency data, the main source of flood risk is pluvial. During a 1 in 100 year storm event a small part of the access road would flood to a depth of 15cm, and in a 1 in 1000 year flood event a slightly larger part of the access road and some of the edges of the main part of the site would flood to that depth.
20. The development would result in an increase in the impermeable area which could increase the rate of run-off from the site. However various methods could be used to mitigate for this including permeable paving, swales or water butts. These could be secured by condition.
21. The Flood Impact Assessment provided on behalf of the Grafton residents concurs with the appellant's report in that the southeast corner of the

appellant's field, as well as the southwest corner of Greenways, is at risk of flooding. Indeed photographic evidence from 2019 and 2007 shows this.

22. The Flood Impact Assessment also appears to show that the appeal site itself would flood in a 1 in 100 year flood event and more common flood events. However anywhere where the depth of water in these storm events is above 2cm is shown as flooded. As such, it effectively shows the route of surface water run-off in storm events with surface water draining to, and settling in, the southeast corner of the field, which is consistent with what is shown in the photos. Indeed, none of the photos provided show anything other than minor surface flooding beyond the southeast corner of the field. This would suggest the main part of the site would only suffer from minor temporary surface water flooding and also, therefore, it would not be necessary for the dayroom to be elevated above ground level. The provision of the dayroom may affect the route of surface water run-off, but this would mostly affect other parts of the appellant's field and in any case could be mitigated by drainage works.
23. I consider that, with a condition requiring details of drainage systems to be provided, the development would not be at risk of flooding and would not increase the risk of flooding elsewhere. It would therefore comply with Core Strategy policies CS.4 and CS.21(4) which both seek to ensure development is not at risk of flooding and does not increase the risk of flooding elsewhere.

Setting of heritage assets

24. The site is separated from the western edge of the Temple Grafton Conservation Area by the residential properties at Greenways and Bonny Green Garters. This distance, the intervening houses, and the development's limited visibility in the street scene mean it would not have a harmful impact on the setting of that conservation area. For the same reason, and despite the fact that the important gap between the two settlements would be reduced, the development would not have any impact on the setting of the Ardens Grafton Conservation Area, which is a substantial distance west of the site.
25. The spire of the grade II listed church of St Andrew in Temple Grafton is visible from the public rights of way to the north west of the site. Its main significance is its role as the parish church of a small rural settlement. Its setting is informed by the rural surrounds of the village, and this contributes to its significance. It is likely that, from the elevated parts of the public right of way, the roof of the dayroom would be seen in the same view as the church. However due to the dayroom's simple design and modest scale, it would not have any adverse impact on the setting of this listed building and hence its significance would be preserved.

Highway safety

26. Though there is a slight bend in the road, the visibility from the proposed access would be acceptable in both directions with some minor pruning of the roadside hedge. Indeed, the local highway authority raise no objection to the access, which supports my view.
27. Temple Grafton Primary School is a short distance to the east. I saw at the site visit that at the start and end of the school day the road outside the site is used for parent parking, and that the pavement outside the site is the pedestrian route for pupils from Ardens Grafton. However there is no reason

why the provision of the repositioned access, and the limited volume of traffic that would use it, would represent an unacceptable risk to road or pedestrian safety.

Access to local services

28. The aforementioned school and church are, with the village hall, the only facilities in Temple Grafton. There is a bus service but it is limited and does not run every day. However, this range of services is not unusual in a rural area, and the PPTS acknowledges that gypsy and traveller sites may be in rural areas. Moreover, the National Planning Policy Framework (the 'Framework') recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that housing can enhance or maintain the vitality of rural communities.
29. So, although the site is not well served by services and facilities, it would have access to some facilities and a limited public transport service which future occupiers could use. This leads me to consider that the site has reasonable access to local services.
30. My attention was directed to Core Strategy policy CS.15 which directs development to the settlements with the greatest range of facilities, and particularly part F which relates to all other settlements (i.e. the smallest settlements in the District). Although this policy states that development in other settlements is restricted to small scale community led schemes which meet a local community need, which the proposal would not represent, I was advised by the Council that the need for gypsy and traveller accommodation is a district wide need which needs to be assessed against other policies. As CS.15 makes no provision for gypsy or traveller accommodation in any of the settlements, I concur with this approach and give little weight to the conflict with this policy.

Effect on the living conditions of the occupiers of Greenways with respect to their privacy

31. On the boundary between Greenways and the appeal site, there is a close-boarded fence, around 2 metres in height, a thick hedge on the appeal site and some trees of around 4 metres in height at Greenways. The submitted plans show that the mobile caravan would be located closest to the boundary. At the site visit the vegetation was in full leaf and there was very little view through the boundary treatment such that occupiers of the caravan would not have a clear view into the rear garden of Greenways. However, I would anticipate that in winter months when the hedge and trees are bare, a clearer view into the rear garden may be possible, particularly as the caravan would be elevated above ground level. This could be such that the privacy of the occupiers of Greenways would be unacceptably reduced.
32. A condition has been suggested requiring an amended site layout plan be provided to ensure no loss of privacy to the neighbouring residents results. With this in place, the development would not harm the living conditions of the residents of Greenways.

Conditions

33. I have considered the Council's suggested conditions. Where necessary, and in the interests of clarity and precision, I have slightly altered the conditions to

more closely reflect the advice in the Framework and the Planning Practice Guidance.

34. As set out above, a condition restricting the use of the site for four years from the date of this decision would be reasonable. A separate condition is added to ensure the site is restored to its former state upon the cessation of the development.
35. Similarly, due to the specific lack of gypsy and traveller accommodation, it is necessary to ensure that it is only persons who meet the definition of gypsies and travellers as set out in PPTS to benefit from the planning permission.
36. In the interests of certainty the condition specifying the approved plans and restricting development to one pitch with no more than two caravans, is included.
37. To ensure the privacy of the occupants of Greenways is preserved, a condition is imposed requiring a revised site layout plan to be provided, and to ensure the development does not cause undue noise or disturbance to the adjacent residents a condition is imposed to prevent the use of the site for any commercial or industrial activities.
38. In the interests of protecting the character and appearance of the area, details of the materials to be used in the dayroom and details of the access gates are to be submitted prior to their construction. For the same reason, a condition preventing the installation of any external lighting unless agreed by the Council is necessary, as is a condition preventing the parking of more than one commercial vehicle and limiting that vehicle to being less than 3.5 tonnes. Likewise, I have imposed a condition relating to hard and soft landscaping which incorporates aspects of several conditions suggested by the Council. This is to ensure the retained hedgerow along the frontage is protected, to ensure a suitable replacement hedgerow is planted where the existing access is to be closed up, and that the materials to be used in the access are suitable.
39. In light of the risk from surface water flooding, particularly to adjoining land, it is necessary to include a condition requiring that further details of surface water drainage are provided. The lack of any mains sewer nearby also means further details of foul water disposal are necessary to safeguard against pollution. A separate condition requiring the provision of rainwater butts where possible also contributes to minimising flood risk.
40. To maintain highway safety, it is necessary for the proposed access to be built, and for the existing access to be closed up, in accordance with the Council's standards.
41. I have not imposed the suggested condition relating to services as I was informed that the site is already served by electricity cables, which I saw on site. It is also unnecessary to include a condition preventing the burning of waste as any nuisance caused in this regard would be addressed by other legislation. The suggested condition requiring electric vehicle charging points would be disproportionate for a temporary planning permission.

Planning balance and Conclusion

42. The development would harmfully impact on the character and appearance of the area and the Arden SLA, but only insofar as it would reduce the

characteristic gap between Temple Grafton and Ardens Grafton. The proposal therefore fails to accord with the development plan taken as a whole.

43. However, there are other material considerations, namely the current lack of gypsy and traveller accommodation. The severity of this and the absence of any evidence to demonstrate it would be addressed in the near future carry substantial weight. Despite the intentional unauthorised development, and being mindful of the temporary nature of any impact, I consider these considerations outweigh the conflict with the development plan. This suggests the decision should be made other than in accordance with the development plan.
44. Therefore, for the reasons given above and having had regard to all other matters raised, the appeal is allowed.

Andrew Owen

INSPECTOR

Schedule of conditions

- 1) The use hereby permitted shall be for a limited period being the period of four years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.
- 2) Within one month from the date the use hereby permitted commences (such date of commencement being notified in writing by the applicant to the local planning authority), a scheme of works for the restoration of the site to its condition before development took place after the temporary period has expired, together with a timetable for its implementation, shall be submitted to and approved in writing by the local planning authority. The restoration works shall be carried out in accordance with the approved details and timetable.
- 3) 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).
- 4) There shall be no more than one pitch on the site and on the pitch hereby approved no more than two caravans shall be stationed at any time, of which only one caravan shall be a mobile caravan.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: 18_983_01 A, 18_983_02, 18_983_03 B and 18_983_05 except in respect of the siting of the dayroom, touring caravan and static caravan shown on plan 18_983_03 B.
- 6) Notwithstanding the site layout shown on drawing no. 18_983_03 B, no caravans shall be brought onto the site until details of the siting of the proposed dayroom, touring caravan and static caravan have been submitted to and approved in writing by the local planning authority. The development shall be carried out and maintained in accordance with the approved details.
- 7) No commercial activities shall take place on the site, including the storage of materials.
- 8) No more than one commercial vehicle shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.
- 9) The development shall not be brought into use, nor any works relating to the new access commenced, until details of both hard surfacing and soft landscaping have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) a scheme for the protection of the existing trees and hedges along the site frontage during construction works;
 - ii) planting;
 - iii) hard surfacing materials;
 - iv) a management, maintenance and implementation programme.

The landscaping works shall be carried out in accordance with the agreed implementation programme.

- 10) Before any above ground works commence on the dayroom hereby permitted, a schedule of external materials to be used in the construction of the dayroom shall be submitted to and approved in writing by the local planning authority. The dayroom shall be constructed as approved.
- 11) Prior to commencement of the installation of the access gates hereby permitted, details of their materials, design and construction shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
- 12) The development shall not be brought into use until details of the disposal of surface water and foul water as part of a drainage strategy have been submitted to and approved in writing by the local planning authority. The details of surface water drainage shall include existing and proposed surface water run-off rates; sustainable urban drainage techniques to ensure that run-off from the site does not increase; a mechanism to allow for overflow; a maintenance and management strategy and a timetable for implementation. Development shall be carried out in accordance with the approved details.
- 13) The proposed vehicular access to the site shall not be used unless a public highway footway crossing has been laid out and constructed in accordance with the standard specification of the highway authority. The vehicular access shall be retained as such thereafter.
- 14) The caravans hereby permitted shall not be occupied until all parts of the existing access within the public highway has been closed and the kerb and footway has been reinstated in accordance with the standard specification of the highway authority.
- 15) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before it is installed. Development shall be carried out in accordance with the approved details.
- 16) No building within the development that has a downpipe shall be used until it has been provided with a minimum 190 litre capacity water butt fitted with a childproof lid and connected to the downpipe.

APPEARANCES

FOR THE APPELLANT:

Philip Brown	Agent
Natasha Birch	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Charlotte Dicks	Planning officer
Gary Grant	Kings Chambers

INTERESTED PERSONS

Peter Tufnell	Representing Temple Grafton residents
Jack Smyth	No.5 Chambers representing Temple Grafton residents
Mary-Anne Vitty	Temple Grafton Parish Council
Cllr Mark Cargill	Ward Councillor
David Keays	Local resident
Helen Keays	Local resident
Graham Gillespie	Local resident
Jasper Beauclair	Local resident
Bożena Beauclair	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

Updated list of conditions

Statement by Nicholas Butler on behalf of CPRE

Details of a planning permission for 63 Farleigh Road, Pershore, and ownership details of that site.