



Appeal Decision

Hearing held and site visit made on 19 July 2022

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2022

Appeal Ref: APP/F1610/W/19/3237163

Hillside View, Hartley Lane, Seven Springs, Gloucestershire, GL53 9NF

- 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 Lee Williams against the decision of Cotswold District Council.
 - The application Ref 18/04875/FUL, dated 14 December 2018, was refused by notice dated 14 March 2019.
 - The development proposed is the use of land for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with the formation of additional hardstanding and utility/dayrooms ancillary to that use, formation of a dayroom for an existing gypsy pitch.
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Decision

1. The appeal is allowed and planning permission is granted for use of land for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with the formation of additional hardstanding and utility/dayrooms ancillary to that use, and the formation of a dayroom for an existing gypsy pitch at Hillside View, Seven Springs, GL53 9NF in accordance with the terms of the application, Ref 18/04875/FUL, dated 14 December 2018, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the determination of the application by the Council and following notification from Natural England (NE), issues surrounding the Cotswold Beechwoods Special Area of Conservation (the SAC) have been introduced. Additionally, there was confirmation of no dispute between the parties surrounding the proposed dayroom for the existing pitch in the submissions and at the Hearing. I have dealt with the appeal on this basis.

Main Issues

3. The main issues of this appeal are:
 - the effect on the character and appearance of the Cotswold Area of Outstanding Natural Beauty (the AONB);
 - the effect of the proposal on the SAC; and,
 - whether the harm arising from the proposal would be outweighed by other considerations

Reasons

Character and appearance of the AONB

4. Policies EN2, EN4 and EN5 of the Cotswold District Local Plan 2018 (LP) require new development to be of a design quality that respects the character and distinctive appearance of the locality and does not have a significant detrimental impact on the natural and historic landscape. Paragraph 176 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. The Framework also notes that AONBs have the highest status of protection in relation to landscape and scenic beauty.
5. The site lies within the countryside and comprises a parcel of undeveloped land in the AONB. The site is located on the edge of character area 8C High Wold Valley: Upper Churn Valley, which is sensitive to developments that might interrupt the sense of seclusion within them and their rural, pastoral character. In addition, the confined landform and steep slopes within the valleys, together with many areas of nature conservation interest together form a further constraint to development.
6. The appellant has submitted a Landscape Statement (LS) with his submission to which I have had regard. I also viewed the site from the locations identified in the LS. The viewpoints in the LS were accepted orally at the Hearing by the Council and an opportunity to request additional viewpoints was given, but none were advanced. In addition to these viewpoints, I also travelled along the A435, but due to the mature belt of trees and other features, including the change in levels, no views of the site were possible. Consequently, I am satisfied that I saw everything I need to assess the impact of the development.
7. The appeal site is located behind a tall mature hedgerow and comprises an undeveloped parcel of land. A commercial yard situated to the south of the site that is separated by the access to the site and the existing pitch to the west. To the north of the site is a small field and a number of pitches that are adjacent to Hartley Road. As the site does not encompass the whole of the parcel of land to the west of the existing site, as it is proposed that a further hedgerow would be planted on the western edge of the site. On the opposite side of Hartley Road to the site is a residential garden, which has mature vegetation and tall trees present.
8. I acknowledge that the proposal involves the development of undeveloped land, however the site-specific circumstances, with particular regard to the existing development that surrounds the site, forms a material consideration of significant weight. Nonetheless, the proposal is very similar to other development in the immediate area. Consequently, the form of development including its layout, scale and appearance would follow the prevailing character and appearance of the immediate area. Whilst the Cotswold Way runs along Hartley Lane past the site, for the above reasons, particularly the existing landscaping, users of the Cotswold Way would not experience any adverse effects.
9. Whilst noting the appeal decisions¹ that included the site subject of this appeal, and the images within the representation from Coberley Parish Council, I am not convinced that the landscape has remained unaltered since these documents were produced. It is likely due to the passage of time that significant vegetation growth has occurred, which would explain the differences with my own findings from my visit. Whilst I accept that the vegetation

¹ s APP/F1610/C/12/2190154, 2190155 & 2191310, APP/F1610/A/13/2192673

surrounding the site was in full leaf during my visit, there is nothing substantive to convince me that the change during the autumn and winter months would create significant visual harm. Even if the site was more visible at different times of the year, the surrounding development would still be a material factor in favour of the proposal.

10. I found the proposal would not be readily visible from wider public viewpoints, due to the surrounding topography. In this instance, even more localised viewpoints would be restricted, particularly due to the mature tall hedgerow that surrounds the plot of land that the site is within. Whilst, light pollution has been raised as a concern by the Council, there is a suggested condition that has been agreed by the parties, which requires the submission of a scheme prior to occupation of the proposal that would control the level of illumination of the sight and control light pollution. As such, I am satisfied that the proposal would not result in excessive light pollution or a fundamental change to the established character and appearance of the immediate area surrounding the site, thus preserving the natural beauty of the AONB.
11. For the reasons given above, I conclude that the proposal would not create any significant harm to the character and appearance of the site, including the conservation and enhancement of the natural beauty of the AONB. The scheme therefore complies with the character and appearance aims of LP Policies EN2, EN4, EN5. The scheme would also accord with the requirements of the Framework.
12. In line with the statutory duty of s85(1) of the CROW Act 2000, and the requirements of LP Policy EN5, I have given weight to the conservation (and enhancement) of the landscape and scenic beauty of the AONB. However, the changes are considered to be acceptable, as the development would be viewed within the context of the existing built form from local and wider public viewpoints. Thus, whilst there is some harm from the proposal, it would not be significant in respect of the built form or the wider landscape of the AONB, and therefore it would conserve the natural beauty of the AONB.

The SAC

13. The appeal site lies within 15.4km of the SAC and within its Zone of Influence, in which it has been concluded by NE that significant likely effects on the SAC cannot be ruled out. The significant likely effects are deemed to arise from recreational pressures associated with additional residential development (alone or in combination with other development). The SAC is designated due to it comprising an internationally important area of Beech forests, dry grasslands and scrublands. The woodlands are recognised as amongst the most diverse and species-rich of their type, while the grasslands exemplify calcareous pastures for which the area is renowned.
14. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the protected habitats. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.

15. It is common ground between the parties that the proposed occupants for the scheme have been residing with the appellant on his pitch for in excess of 6 years. Thus, as the proposed occupiers have been residing in the immediate locality for a notable period of time, it cannot be said that the proposal would have an adverse effect on the integrity of the protected habitat, as no new household would be created. The appellant has provided 2no appeal decisions² to support his case. The merits of these cases were discussed at the Hearing, where the similarities with this appeal were established in relation to the SAC. The Council also confirmed orally at the Hearing that there is no intention to take any action against the proposed occupiers of the proposal should the appeal fail.
16. Therefore, as the proposal would not add to the resident population, there would be an overall neutral effect. In this instance, this could be secured through the imposition of a suitably worded condition, limiting the occupation of the site to the people currently sharing the appellant's site. This approach was discussed at the Hearing and was accepted orally by the Council as a possible solution, where the consultation response submitted by NE was also discussed. Consequently, as the scheme would not have an adverse effect on the integrity of the protected habitat, mitigation or an appropriate assessment is not required in this case.
17. For the reasons given above, I conclude that the proposal, would not create any significant harm to the SAC. The scheme therefore complies with the environmental aims of LP Policies EN1, EN8 and EN9. The scheme would also accord with the requirements of the Framework.

Other considerations

18. There is a generally accepted national need for more traveller sites. The level of need will vary between regions and at district or local authority level. The Framework expects that the housing needs for different groups in the community should be reflected in planning policies.
19. The Planning Policy for Traveller Sites (PPTS) sets out Government planning policy for Traveller sites, for those meeting its Annex 1 definition. This covers those Gypsies and Travellers of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily.
20. The PPTS explains that the Government's overarching aim is to ensure fair and equal treatment for Travellers, in a way that facilitates their traditional and nomadic way of life, while respecting the interests of the settled community. To help achieve this, paragraph 4a states that local planning authorities should make their own assessment of need for the purposes of planning for Annex 1 Traveller sites.
21. LP Policy H7 identifies 11no. pitches at 'Four Acres' and 'Meadowview' to accommodate future needs, with 7no. and 4no. pitches respectively, and sets out criteria for determining applications for the development of pitches elsewhere. The Council argue that having provided enough Traveller pitches to

² APP/R3650/A/05/1195499 and APP/U1240/C/10/2131503

- meet the need identified in the GTAA, and that the proposal fails on this criterion.
22. The 2017 GTAA identifies a need in the District for 3no. additional pitches for Travellers meeting the Annex 1 definition. These are within the period 2016-21. Additional need for unknown households amounts to 11no. additional pitches, comprising 7no. additional pitches for the period 2016-2021 and 2no. additional pitches in both periods 2021-2026 and 2026-2031. A further 13no. pitches have been identified from 15no. households who do not meet the definition.
23. The appellant considers there to be a marked difference and a much greater need, due to a failure in the methodology of the GTAA. The Council contends the findings of the GTAA to be robust and that they have a sufficient number of sites within the District. The appellant directs my attention to many matters, including inaccuracies in recording the number of pitches with permanent planning permission; a failure to accurately identify households that were doubled up/concealed/overcrowded, and the failure to establish an accurate number of households in bricks and mortar wishing to move to sites. Additionally, the low survey rate has been noted and discrepancies between the findings for unauthorised sites, where none were found in the GTAA and those identified on the caravan counts around the time of the base date. On these matters alone, there is a strong likelihood of underestimation surrounding need within the District.
24. In addition to general need, the availability (or lack) of alternative accommodation for the current occupiers is a relevant consideration, as indicated by the PPTS. In this respect, the Council referred to 'Four Acres' and 'Meadowview' but could not confirm the availability of the alternative sites for the future occupiers of the proposal to move to if their appeal is not successful. There is no obligation on a local authority to provide a site for the proposed occupiers of the appeal scheme, although there is a general obligation. However, the probability is that finding a suitable alternative pitch would be very difficult, bearing in mind the recent site search, undertaken by the Council, where a lack of response was reported orally by the Council at the Hearing.
25. At the present time, the proposed occupiers are in overcrowded accommodation and the lack of their own pitch is resulting in a lack of a suitable pitch for 2no. families. The personal circumstances of the proposed occupants of the site, who meet with the definition in the PPTS, especially where a child is also present attracts substantial weight in support of the scheme. The site is located adjacent to other suitable pitches to the north and east and would effectively be an extension of the appellant's own site, albeit to create a new site for his sister-in-law and her family. For these reasons, the proposal accords with the aims of the sequential test outlined in clause 3 of LP Policy H7.

Conditions

26. I have considered what planning conditions would be appropriate in light of the discussion at the hearing and Planning Practice Guidance. Conditions should satisfy the following six tests: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

27. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary. Pre-occupation conditions regarding, landscaping and parking areas are all reasonable and necessary in the interest of character and appearance and highway safety respectively.
28. The proposal is acceptable due to the need, lack of options and personal circumstances. Therefore, it is necessary to impose a personal permission. This would also ensure that no adverse issues arise with regards to the SAC and that the proposal would be for the intended occupiers who have demonstrated a notable length of residency in the immediate locality.
29. It is also necessary to restrict occupation to those meeting the PPTS definition. Conditions controlling the materials on the dayrooms and the lack of treatment on the timber boarding, the implementation of the landscaping scheme, the planted trees and plants, any future lighting and the number of caravans and mobile homes on the site, as well as no commercial activities are reasonable and necessary in the interest of character and appearance and to define the permission.

Planning Balance and Conclusion

30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
31. Given my findings above, the proposal accords with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It also complies with the requirements of the Framework. I therefore conclude that the proposed development is suitable for the site.
32. For the reasons given above, I conclude that the appeal should be allowed.

W Johnson

INSPECTOR

SCHEDULE OF CONDITIONS

Time Limit

1) The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Approved drawings

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16_762B_001; 16_762B_003 and 16_762B_004.

Pre-occupation

3) Prior to the first use/occupation of the development hereby approved, a comprehensive landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme must show the location, size and condition of all existing trees and hedgerows on and adjoining the land and identify those to be retained, together with measures for their protection during construction work. It must show details of all planting areas, tree and plant species, numbers and planting sizes. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development.

4) Prior to the first use/occupation of the development hereby approved, vehicle parking shall be provided in accordance with the approved plans and those facilities shall be maintained available for those purposes at all times.

Other

5) The occupation of the site hereby permitted shall be carried on only by the following persons:

- Sasha Smith and her son Tyler James;
- Sasha Italia; and,
- Billy Dean.

6) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of PPTS (August 2015) or any replacement guidance.

7) Prior to the construction of any external wall of the dayrooms hereby approved, samples of the proposed walling and roofing materials shall be approved in writing by the Local Planning Authority and the scheme shall be implemented in accordance with the approved details.

8) The timber boarding to the dayrooms shall not be treated in any way and shall be left to weather and silver naturally and shall be permanently retained as such thereafter.

9) The landscaping scheme shall be fully implemented by the end of the planting season immediately following the completion of the development or the site being

brought into use, whichever is the sooner.

10) Any trees or plants shown on the approved landscaping scheme to be planted or retained which die, are removed, are damaged or become diseased, or grassed areas which become eroded or damaged, within 5 years of the completion of the approved landscaping scheme, shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species as those lost.

11) Prior to its installation, a scheme shall be submitted to and agreed in writing by the Local Planning Authority which specifies the provisions to be made for the level of illumination of the site and the control of light pollution. The scheme shall be implemented and maintained in accordance with the approved details.

12) The additional accommodation hereby approved site shall comprise no more than two caravans, of which no more than one can be a mobile home, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the site at any time.

13) No commercial activities shall take place on the land, including the storage of materials.

****End of Schedule****

APPEARANCES

FOR THE APPELLANT:

Lee Williams	Appellant
Matthew Green	Agent/GPS Ltd
Ruth Reed	GPS Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Moody BSc (Hons) Dip TP MRTPI	Cotswold District Council
Tom Rosser-Smith	Cotswold District Council

INTERESTED PARTIES

Peter Crozier	Coberley Parish Council
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HEARING DOCUMENTS

The following documents were submitted and accepted at the Hearing:

ON BEHALF OF THE APPELLANT:

- Statement of Common Ground (signed)
- Updated witness statement for Sasha Smith (signed)

ON BEHALF OF THE LOCAL PLANNING AUTHORITY:

- LP Policies EN1, 8, 9 and the Cotswold Design Code

ON BEHALF OF AN INTERESTED PARTY (Natural England):

- Natural England letter dated 18 July 2022
- Natural England letter dated 19 December 2019
- Natural England letter dated 18 August 2018
- Joint Core Strategy Statement of Cooperation