



Appeal Decision

Site visit made on 21 November 2022

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2022

Appeal Ref: APP/Y2810/W/21/3285297

Pastures Game Farm, Weedon Lane, Dodford, Weedon, Northamptonshire NN7 4TA

- 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 Bryn Medcrast against the decision of Daventry District Council.
 - The application Ref DA/2020/0980, dated 4 November 2020, was refused by notice dated 22 April 2021.
 - The development proposed was originally described as the '*change of use of land to mixed use for agriculture and as a residential caravan site accommodating 1 No. gypsy pitch including the stationing of 2 No. caravans and the laying of hardstanding*'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the change of use of land to use as a residential caravan site for one traveller family with one mobile home and one touring caravan, laying of hardstanding and installation of septic tank. The Council dealt with the proposal on this basis and so shall I.

Background

3. The appeal site comprises some 0.26 hectare of agricultural land, and part of a wider field situated between the Grand Union Canal to the west and Watling Street (A5) to the east. A planning application¹ for a change of use of the site as a 5-pitch touring caravan site and 1 holiday chalet was recently withdrawn due to flood risk, and highway safety concerns.
4. There is existing hardstanding on the land, a chalet (mobile home) and other buildings/structures positioned to the lower land at the north western corner, as shown within the blue land on the location plan. The appellant and his family reside at the site in the mobile home. The siting of the mobile home and other structures is unauthorised, and the Council confirm it is the subject of ongoing planning investigations. This proposal seeks to relocate this mobile home onto an elevated area on the grass field, form new areas of hardstanding, and the installation of a septic tank drainage system, as identified on the site layout plan.

¹ DA/2020/0295

Main Issues

5. The main issues are (i) the accessibility of the site to local services and facilities; (ii) the effect on highway safety; and (iii) the effect of the proposal on the character and appearance of the area, including the setting of the Grand Union Canal Conservation Area (CA).

Reasons

Accessibility

6. The Government's Planning Policy for Traveller Sites (PPTS) states that Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas in the development plan.
7. Policy HO9 of the Settlements and Countryside Local Plan (Part 2) for Daventry District 2011-2029, adopted 2020 (SCLP) is the most important policy for determining applications for gypsies, travellers and travelling showpeople. It sets out that proposals must meet certain criterion. At A.(ii) it requires that the site is reasonably accessible to a range of services, i.e shops, public transport, primary health care and schools.
8. The appeal site lies outside of any defined settlement boundary, within the countryside. It is some 1.5km away from the village of Dodford, a small settlement with a limited range of services. The village of Weedon is a local centre, and is some 1.5km by road using the A5. There is a pedestrian/cycle route along the adjacent canal towpath accessed from Weedon Lane with similar distances to the village. Weedon contains a primary school, doctors, supermarket, shops and services.
9. The appeal site has a narrow access track way which is unsurfaced and has a moderate distance when walking to adjoin Weedon Lane. However, it has a steep incline due to the sloping nature of the site, and has no visible lighting. Weedon Lane is a country lane with an absence of formal footways linking the site with the wider area, and is devoid of any street lighting. Weedon Lane to the east adjoins the carriageway of the A5 link road. There are no nearby bus stops serving the site, but this is positioned along the A5/A45 a considerable distance away which serves the larger settlements of Daventry, Rugby and Northampton.
10. The canal towpath is accessible from Weedon Lane and consists of an unmade surface for the majority of the route, and as I saw the surface remains boggy and unstable during bad weather conditions. On this basis, even if this was a realistic option it would be highly unlikely that occupants of the appeal site with young children would choose this route throughout the year to access schools, services and facilities in the nearby villages. Nor would it be suitable as a realistic cycling route.
11. As such, the opportunities to use sustainable modes of transport are restricted, and I consider that most journeys to and from the appeal site would be made by private motor vehicles, whether to the nearby smaller village of Dodford, or to the larger village of Weedon. However, these journeys to reach facilities and services within the nearby villages would be relatively short and Weedon offers a range of facilities including shops, and schools. Moreover, I do not consider the appeal site is within a remote location, for the reasons given above.

12. In consideration of the location, I have had regard to the appeal decisions² the appellant has drawn my attention too, in respect of locational accessibility for gypsy and traveller sites. I do not have the precise circumstances that led to those appeal sites being acceptable. Therefore, I cannot be certain they are directly comparable with the appeal proposal in terms of location, scale or planning policy. In any case, I have reached my own conclusions on the proposal, based on the evidence before me.
13. The appeal site is not in a location away from settlements where traveller sites should be very strictly limited in accordance with PPTS, and it would enable reasonable and satisfactory access to a full range of services, including local schools and other amenities. Necessary utilities are capable of provision within the appeal site. On this basis, I conclude that the appeal site is a suitable location for gypsy and traveller accommodation with regard to its accessibility and would not be in conflict with Policy HO9 A(ii), as I have set out.

Highway Safety

14. Policy HO9 A(i) requires that gypsy, travellers and travelling showpeople sites have safe and convenient vehicular access from the public highway, and provides adequate space for parking, turning and servicing on-site.
15. Access to the appeal site would be served by a long private single access track from Weedon Lane. Weedon Lane is a narrow country lane of limited width, with no footways or highway lighting. The site access is some 20m from the crest of a humpback bridge to the west of the site, which only allows one vehicle to pass over at a time, and there are no vehicle highway restrictions along Weedon Lane. The bridge is supported by an adjoining parapet brick wall attached to wooden fencing and posts which lead to the pedestrian access to the canal towpath. To the east of the access is a grassed verge area consisting of fencing. This adjoins a significant amount of roadside vegetation, including hedgerows and trees along Weedon Lane.
16. The Local Highway Authority (LHA) have set out that the site access has severely restricted visibility to the west. The canal bridge affects visibility in both the horizontal and vertical planes due to the bridge parapet and humpback nature of the bridge. The LHA during the course of the planning application requested further information from the appellant, including a speed survey and details of visibility.
17. The appellant asserts that Weedon Lane is lightly trafficked, traffic speeds are low particularly over the canal bridge, and has assumptions and estimations of visibility without supporting technical evidence. He states that the proposal would only generate some 8 vehicle movements per day, and the touring caravan being only moved occasionally for part of the year when the family are travelling. Reference is made to an access opposite the appeal site, however this serves a motorbike racing circuit, and the Council confirm this is not subject to planning controls.
18. I acknowledge that adequate space for parking and turning of vehicles is provided within the site itself and is shown on the 'Site Layout Plan'. The matter of surfacing of the track could be dealt with by a suitably worded condition.

² APP/L3245/A/14/2215836, APP/R0660/W/15/3137298; APP/J0405/C/13/2193582

19. However, the appellant has not provided a speed survey in support of the proposal, nor does the 'Location Plan' identify the visibility splays that could be achieved. There would be an intensification of use of the access, and this would clearly add to vehicles already using the single access track. Furthermore, Weedon Lane serves existing residential and commercial properties, including 'Dodmoor House' a significantly large wedding and event venue. These are likely to generate a considerable amount of vehicle traffic movements along Weedon Lane, and vehicles would have restricted visibility travelling over the bridge oncoming towards the appeal site. Thus, without demonstrating suitable visibility splays could be achieved for vehicles to exit the access track safely, the proposal would be detrimental to highway safety.
20. In addition, it is unclear how the appellant would be able to modify the site access to create and maintain any visibility splay with the hindering roadside vegetation along Weedon Lane, and the wooden access/fencing to the west at the point where the access adjoins the canal towpath. Therefore, I am not satisfied that on the available evidence that adequate visibility splays could be provided and maintained in perpetuity.
21. Therefore, and based on the available evidence, I conclude that the proposal would cause significant harm to highway safety. Consequently, it would be in conflict with Policy HO9 A(i) of the LP, as I have already set out. Moreover, the proposal would be contrary to paragraph 111 of the National Planning Policy Framework (the Framework), which requires development to be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Character and appearance, including the setting of the CA

22. The appeal site is located within distinctly rural surroundings, and is in an elevated section of countryside at the western edge of an open field. The site immediately adjoins the boundaries of the canal towpath, and the CA. Therefore, it is closely related to the setting of the CA.
23. The significance of the CA setting derives from the linear canal network, dating from the late 18th century, a major element of Britain's industrial heritage for the transportation of goods. The Grand Union Canal spans some 32 miles in length, provides the largest proportion of the canal network and connects to the Oxford Canal at Braunston Junction. The canal and its line have been updated over time, but it remains in most parts as it was originally. There are associated cuttings, tunnels and embankments giving it historical interest, with associated structures such as bridges, locks and canal side dwellings being listed.
24. The CA includes areas that represent historical interest, in length, including the cut, towpaths and opposite bank. The woodlands and tree belts on either side of the canal are included as a whole in the CA, as they contribute to the amenity and character of the canal. Hedgerows and associated trees of the towpath are also included, forming the boundary of the CA. The character of the CA (as set out in Section 4.3/4.4 of the designation appraisal) identifies that the perception of it for many people will be influenced by their comprehension of external factors, in travelling by boat or foot.
25. I saw there are considerable views of the appeal site from the towpath itself, and hedgerow vegetation, and trees forming the boundaries are sparse in part,

particularly at the point of where the proposed mobile home would be sited. The proposal is for a change of use of open agricultural land to use as a residential caravan site, consisting of 1 pitch with a static caravan/mobile home and 1 tourer. The combination of hardstanding, mobile home, touring caravan, vehicles and any associated domestic paraphernalia would introduce residential use on land currently open and free from any built form.

26. The proposed landscaping would do little to prevent views from the towpath, particularly during the winter months. I saw that the change in levels between the appeal site and towpath are significant, and this did not prevent views of the appeal site when walking along the towpath.
27. Furthermore, the siting of the landscaping as shown, would only screen from viewpoints along the A5, when looking towards the site and not from the towpath. This would also take considerable time for native planting to establish, to adequately screen the site from those viewpoints. Moreover, I am not satisfied that additional landscaping suggested by the appellant would reduce any views from the towpath, given the levels between the canal, towpath and the site.
28. I accept that there are likely to be permanent moorings along parts of the canal, and other residential units along the track, however, their presence does not change the site's rural character and appearance, nor justify a visually harmful development. The site would clearly be viewed by any members of the public using the towpath, and mooring owners/visitors to the canal. Thus, the proposal would appear entirely out of context in this sensitive countryside location, appear incongruous and cause harm to the historic setting of the CA.
29. The statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not make provision for land outside of a conservation area. Nevertheless, the planning system still affords significant protection to the historic environment.
30. I conclude that the proposal would have an adverse impact on the character and appearance of the area, and would be harmful to the setting of the CA, including its significance as a heritage asset, insofar as it would erode the verdant fringe of the historic canal and towpath. This would be in conflict with Policies HO9 A(v), ENV7 and ENV10 (i and iii). Amongst other matters these policies require the scale and location of new sites to not have an unacceptable impact on the landscape, integrate into existing landscape features; and seek to protect the historic environment.
31. Whilst the harm to the heritage asset would be less than substantial, I must nonetheless give this considerable importance and weight in the context of a duty to favour preservation or enhancement. Paragraph 202 of the Framework states this harm should be weighed against the public benefits of the proposal.
32. There would be little public benefit other than to the appellant, although it would contribute to the Council's supply of pitches, however this does not outweigh the harm found to the significance of the CA in my view.

Other considerations

33. Policy HO9 of the SCLP seeks to ensure appropriate provision for gypsy, traveller and travelling showpeople sites. It sets the overall need for site provision identified from 2016 to 2029, in line with the gypsy, traveller and travelling showpeople needs assessment³ 2017 (GTAA). It identified that there was no need for additional pitches in the former Daventry District meeting the planning definition, but in applying the national average resulted in 1 pitch. The projected need from unknown households within the plan period identified 6 pitches.
34. The SCLP does not allocate any new traveller sites, but HO9 is not a restrictive policy when potential need has been met. Future applications are considered on a case-by-case basis, including windfall sites, against the local criteria set out in HO9, and other relevant policies in the development plan, PPTS and the Framework.
35. The Council state that the projected need has been met and exceeded by 5 pitches in the District through securing planning permissions. The appellant raises issues with the assessment and the methodology of the GTAA, and I have had regard to the appeal decisions⁴ which have been brought to my attention. However, the GTAA has been examined through the local plan process, and forms the most-up-to date assessment of need in the District. Nevertheless, the proposal would contribute to the supply of gypsy and traveller pitches, which I attach weight to.
36. There are no public sites in the District, but the appellant has set out that alternative pitches in the area comprise small private sites accommodating families, and do not become available for occupation by non-family members with the only alternative option is for the family to return to unsuitable accommodation.
37. On the basis of the evidence, there does not appear to be any reasonable accommodation for the appellant and his family to occupy and have a settled base. Thus, I consider that having a settled base at the appeal site would result in a number of benefits to the appellant and his family that weigh in favour of the proposal.

Personal Circumstances

38. The wider appeal site is already occupied by Mr Medcast with his wife and young children. He travels for work purposes, and is away for at least 2 months of the year. The proposal would provide the family with a settled base, where they could live together, and the children could maintain attendance at their primary school (although it is unclear from the evidence before me whether the school is locally based). The Council has also not disputed the appellant's PPTS status, and the matters contained in the discussion at 'Appendix 3' do not provide contrary evidence in this regard.
39. The personal occupancy of the site could be controlled by condition. Any future intensification of the site would be a matter for the Council. In light of the above, the personal circumstances put forward by the appellant, the need for

³ West Northamptonshire Travellers' Accommodation Needs Study

⁴ APP/J0405/W/18/3193773; APP/X0360/C/16/3153193

culturally appropriate accommodation, and the needs of the family, these matters add considerable weight in support of the proposal.

The best interests of the children

40. The best interests of children are a primary consideration in this appeal. No other consideration is inherently more important than their best interests in safeguarding and promoting their welfare. However, these best interests will not always outweigh other considerations including those that impact negatively on the environment, and in all of the circumstances of the case. Nonetheless, I have kept the best interests of the children at the forefront of my mind in reaching my decision.
41. Children would live at the resultant pitch, and a settled base would provide suitable access to education facilities, and would be important for their emotional well-being. I afford substantial weight to the best interest of the children in this case.

Other Matters

42. The Council has not concluded that the proposal would cause harm to the setting of the nearby Grade II listed building 'Dodmoor House'. Based on my site visit, and the separation distance between the appeal site and the listed building. I have no reason to disagree in respect of this matter and the proposal would not result in any harm to the significance of this heritage asset as a development within the setting of a Listed Building.
43. The proposed development would not cause any harm in respect of the living conditions of nearby occupiers, contamination, noise and air pollution, and ecology. The proposal would be located within Flood Zone 1. There is no evidence that it would result in pollution to the watercourse, noise disturbance or anti-social behaviour. Unauthorised works or use at the appeal site would be future matters for the Council. Suitably worded conditions could have addressed lighting, refuse, drainage, protection of canal habitats, biodiversity and the structural integrity of the canal embankment.

Planning Balance and Conclusion

44. The proposal would cause harm to the character and appearance of the area, including the setting of a designated heritage asset, which attracts significant weight. I attach substantial weight to the harm to highway safety and that the safe and efficient operation of the highway network in the vicinity of the appeal site would be compromised to a significant degree. The proposal would be contrary to the development plan in these respects.
45. In the overall planning balance, the benefits of the proposal including the provision of one additional gypsy and traveller pitch, the personal considerations offered by the appellant and a settled base for a number of children to assist in their emotional and educational development do not outweigh the harm I have identified. The significant effect on the significance of the heritage asset, and highway safety, are sufficient for me to conclude that the proposed development is unacceptable, particularly in the interests of the historic environment, and safety. Even if, there was a significant shortfall in the

supply of pitches in the District, and in light of the recent judgement⁵, these would not alter my view in this regard.

46. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. The appellant and his family, who intend to occupy the site have protected characteristics for the purposes of the PSED. However, after having regard to all material considerations, I am satisfied that the aim of avoiding unacceptable harm to the significance of the heritage asset, highway safety can only be adequately addressed by dismissal of the appeal. Any interference with the human rights of the appellants, their family and potential occupants of the site is therefore necessary and proportionate.
47. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
48. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR

⁵ *Smith v SSLUHC & Ors* [2022] EWCA Civ 1391