



Appeal Decision

Hearing held on 23 November 2022

Site visit made on 23 November 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/K0235/W/21/3268247

Stevington Riding Club, Dane Hill Farm, Silver Street, Stevington, Bedfordshire, MK43 7QP

- 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 and Mrs Bobby & Selina Foster against the decision of Bedford Borough Council.
 - The application Ref 20/00373/COU, dated 17 February 2020, was refused by notice dated 3 August 2020.
 - The development proposed is use of land for the stationing of caravans for the residential purposes for a single 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 the residential purposes for a single Gypsy Pitch at Stevington Riding Club, Dane Hill Farm, Stevington, MK43 7QP in accordance with the terms of the application, Ref 20/00373/COU, dated 17 February 2020, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal has been made jointly by Mr and Mrs Foster and they are therefore referred to as the appellants. However, evidence has been submitted on the basis of the proposed pitch being occupied solely by Mr Foster, and therefore he is referred to as the proposed occupier.

Main Issues

3. The statement of common ground confirms that the parties are now in agreement that the development would not result in unacceptable harm to the character and appearance of the area. In addition, following receipt of the Biodiversity Assessment, suitable measures to prevent harm to protected species present on the site have been provided and subject to a condition requiring adherence to its findings, no further objection is raised.
4. On this basis the Council is no longer pursuing reasons for refusal 3 and 4 as outlined in its decision notice.
5. Therefore, the main issue in this appeal is whether or not the appeal site is a suitable location for the proposed pitch with reference to the spatial strategy in the development plan and the accessibility of services and facilities.

Reasons

Spatial Strategy

6. Policy 3S of the Bedford Local Plan 2030 (the LP) sets out that development should enhance the vitality of rural communities and safeguard the intrinsic character of the countryside. Policy 4S deals with the distribution of housing across the borough and policy 7S restricts development outside defined Settlement Policy Areas and requires development in the countryside to recognise the intrinsic character and beauty of the countryside.
7. The Council have confirmed that in no longer pursuing their objection to the development on the impact upon the character and appearance of the area, the proposal is not in conflict with LP policies 3S and 7S. Furthermore, LP policy 4S is not directly relevant to the development as it is not for general housing. Having considered LP policies 3S, 7S and 4S I have concluded that the proposal would accord with them, in so far as they are relevant.
8. Policy 63 of the LP deals specifically with proposals for traveller's sites on unallocated land in the countryside. The Council confirmed that in principle, proposals such as the appeal scheme are acceptable outside of the defined settlement boundary, subject to meeting a number of criteria which are set out within the policy. Of relevance to the appeal are (i) whether the Council is satisfied that the applicant has adequately demonstrated a clear need for a site in the borough, and the number, type and tenure of pitches proposed, cannot be met by a lawful existing or available site and (ii) whether adequate schools, shops and other community facilities are within reasonable travelling distance.
9. The Stevington Neighbourhood Plan was adopted in June 2021 and I have been directed to policies HO1, HO2, DH1 and EN1. Policies HO1 and HO2 both deal with new dwellings within the Settlement Policy Area and meeting a local need and are therefore not directly relevant to the proposal before me. Policy DH1 deals with design and character of development, which is required to complement the local surroundings, and as the Council has confirmed that there is no adverse impact on the character of the area, no conflict has been identified. Policy EN1 sets out that new development must preserve and enhance and have no significant impact on the natural environment, and this has been confirmed through the submitted biodiversity assessment. Therefore, I am satisfied that the proposal would not conflict with the Neighbourhood Plan, and this was an approach that both the Council and the Parish Council agreed with during the hearing.
10. Paragraph 25 of the Planning Policy for Traveller Sites (PPTS) seeks to strictly limit new traveller site development in the open countryside that is away from existing settlements. The parties agreed that there is a distinction between this and paragraph 11 which considers the suitability of sites in rural or semi-rural settings.
11. The site is located a short distance from the village of Stevington and as a result is not away from the existing settlement, in terms of paragraph 25. The site is also located within its own defined landscaped boundaries and contains a range of existing buildings. As such it is distinct from the open countryside which is experienced beyond the appeal site.

12. This accords with the Council's reasoning, expressed during the hearing, that the site is not within the open countryside and as such development, such as that envisaged within the PPTS, does not need to be strictly controlled.

Demonstrated need for a site

13. The supporting text to Policy 63 of the LP sets out that the policy will be used to assess planning applications for traveller pitches which come forward on sites which have not been allocated through the local plan, often referred to as windfall sites.
14. The Gypsy and Traveller Accommodation Assessment (GTAA) identified that there is potential for additional need from existing households where such need could not be adequately assessed and that these needs could be assessed using Policy 63. It requires appellants to demonstrate that they meet the definitions provided by the PPTS.
15. Evidence has been supplied by the appellants to demonstrate a nomadic habit of life and the Council has not taken an alternative view or suggested evidence to the contrary. Accordingly, the future occupant of the proposed pitch would travel for economic purposes and thus follow a nomadic habit of life and, accordingly the PPTS provides a relevant context for this proposal.
16. Mr Foster previously resided at a Council owned traveller site with his family. Due to a change in personal circumstances he no longer lives there and is currently residing on a doubled up pitch in the locality. It has been put to me that the provision of his own permanent pitch is the best prospect for him to have a settled base.
17. The Council has not identified any lawful existing or available allocated sites which could meet the needs of the appellant and therefore whether or not the Council is able to demonstrate a 5 year supply of sites, the proposal would comply with Policy 63 (i) as the appellant has adequately demonstrated a need for a site in the borough.

Access to services and facilities

18. The nearest discernible village, to the appeal site, is Stevington, which is designated within the LP as a village. It has a built up character and has a limited range of services and facilities. The Council has indicated that the appellant would need to travel to Broham, a key service centre or onward to Bedford, to access a wider range of facilities, such as health care provision.
19. Due to the intervening distance, it is highly unlikely future residents would regularly walk to either Stevington or Borham. The nearest bus stop is approximately 1.2km from the site and whilst this would be an available alternative to the private car, the service operates every 2 hours and therefore, this leads to uncertainty that it would be a realistic alternative to the convenience of a private car.
20. Thus, future occupiers of the proposed pitch would be predisposed to use private motorised transport when accessing everyday facilities and services. This would result in negative impacts on carbon emissions and from disincentivising healthy travel options such as walking.

21. However, the appeal site is only around six miles to the centre of Bedford and the railway station. The A428 is a classified road that provides good access into the national road network. This road can be easily accessed from the appeal site via a junction directly onto it from Silver Street. The easy access to the national road network would facilitate travel and the nomadic habit of life the occupant engages in.
22. Therefore, any journeys made by car would be reasonably short when bearing in mind that accessibility needs to be considered in the context that members of the travelling community are generally reliant on vehicles wherever they live given their lifestyle.
23. Moreover, for parts of the year the proposed occupier would be away travelling and therefore the number of journeys would be reduced, albeit as he intends to keep horses on the site this would be offset by the need for someone else to care for them in his absence.
24. Thus, the appeal site's position only a short distance from the facilities and services of Bedford could be considered as not being isolated from settlements and that it provides convenient access to existing services and facilities.
25. In conclusion, the proposal would provide the future occupant, who has a nomadic habit of life, with adequate access to services and facilities. Given the site's proximity to a sustainable settlement and a classified road, when the future occupant would be generally reliant on the private car.
26. As a result, it would accord with Policy 63 of the LP which permits development for gypsy and traveller sites in the countryside where there are adequate schools, shops and other community facilities within a reasonable travelling distance. Whilst the policy has a preference for access to these by foot, cycle and public transport, this has to be applied in the context of the site specifics. Moreover, the National Planning Policy Framework at paragraph 105 sets out that in rural areas opportunities to maximise sustainable transport solutions will vary.

Other Matters

27. The appellant has put forward personal circumstances which demonstrate a need under Policy 63 of the LP. But consideration must also be given to the implications of the *Smith v SSLUHC & Ors* [2022] EWCA judgement regarding the interpretation of the PPTS and the application of that policy to gypsies and travellers who have ceased to pursue nomadic lifestyles.
28. Following *Smith*, it is possible that other households who have been discounted in the Council's GTAA as not meeting the definition under Annex 1 of the PPTS, would now fall to be considered as having a need and the parties accepted that this may equate to a future need for pitches. In addition, as outlined above, the GTAA also accepts that there is potential for additional need from existing households and that these needs could be assessed using Policy 63.
29. Therefore, on this basis I have not found it necessary to restrict the proposed traveller pitch to the appellant, as it is a site which could also be available for other individuals who are of a nomadic habit of life, including such persons who on grounds only of their own or their families or dependants educational or health needs or old age have ceased to travel temporarily or permanently who may have been discounted from the Council's GTAA.

Conditions

30. The Council has suggested conditions which I have considered against the advice in the National Planning Policy Framework and Planning Practice Guidance. As well as the standard implementation condition, I have imposed a condition to ensure that the proposal is carried out in accordance with the approved plan to provide certainty.
31. The Council have suggested that, if planning permission is to be granted, it should be subject to a condition limiting occupation of the site to Gypsies and Travellers as defined in Annex A of the PPTS. However, the Court of Appeal in *Smith* held that the exclusion of Travellers who have ceased to travel permanently is discriminatory and has no legitimate aim.
32. There is no foretelling as to whether any occupiers might be forced to cease travelling permanently during the anticipated lifetime of the permission. Imposing the suggested condition would be liable to result in unlawful discrimination, with members of the family being unable to live on this site.
33. I shall therefore grant planning permission subject to a condition which restricts occupation to Gypsies and Travellers, defined so as to not exclude those who have ceased travelling permanently.
34. To limit the visual impact the number of caravans and the size of vehicles to be kept at the site are to be restricted. For similar reasons details of landscaping, bin storage and any external lighting are also required to be submitted, agreed and implemented.
35. In the interests of highway safety, conditions securing the surfacing of the access with a bound material, restricting the position of any gates and requiring the provision of 2 parking spaces with appropriate turning, are imposed.
36. In order to secure biodiversity net gain I have imposed a condition to ensure that the post development habitat creation and enhancement is carried out and maintained for the life of the development.
37. I have not found it necessary to impose a personal permission for the reasons I have previously outlined.
38. I have also not found it necessary to impose a condition requiring the submission of a biodiversity enhancement scheme, as the appellant has already submitted one and there are no outstanding issues relating to this matter.
39. The access already exists, and I have not found it necessary to impose a condition requiring details of the junction to be submitted or for the access to be widened. The site is for a single pitch, comprising 2 caravans, and as such I do not consider that the use of the access would be intensified such to require significant alteration or improvement to be secured by condition.
40. I have also not found it necessary for an area to be provided for an 8.5m long fire tender to turn as I consider that such works could be detrimental to the character and appearance of this rural location. In addition, discussions during the hearing indicated that there was no technical requirement for a fire tender to turn within the site in order to attend to any emergencies on the site.

41. I have not imposed a condition requiring the extent of the residential use of the land to be submitted as the approved site location plan defines the application site and extent of the development.
42. Nor have I found it necessary to restrict the appellants permitted development rights for the erection of close board fencing. As no exceptional circumstances were advanced by the Council as to the necessity for this condition.

Conclusion

43. I therefore conclude that the proposal would accord with the development plan as a whole and, as other material considerations do not indicate a decision to the contrary, that the appeal should be allowed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Green, Green Planning Studio Ltd
Bobby Foster

FOR THE LOCAL PLANNING AUTHORITY:

Alastair Wren MRTPI
Penny Jewitt
Steve Jarman, Opinion Research Services

INTERESTED PARTIES:

Janet Day
Peter Fisher
Andrew Lockwood
William Scurry
Ann Kennedy

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 19_1030_001, 19_1030_002, 19_1030_003.
3. 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 (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
4. The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons 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 or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.
5. No caravan shall be brought onto the site until space has been laid out within the site for 2 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
6. No caravan shall be brought onto the site until the access has been surfaced with a bonded material across the entire width of the access for a distance of 5.0m measured back from the carriageway edge. Surface water from the access must not drain to the public highway.
7. Any vehicular access gates provided shall open away from the highway and be set back a distance of at least 6.0m from the nearside edge of the carriageway of the adjoining highway.
8. The site shall not be occupied until details of bin storage/collection points have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and retained in accordance with the approved details, prior to first occupation of the site.
9. No external lighting shall be installed on the land until details of the type, quantity, height and location of lighting have been submitted to and approved in writing by the Local Planning Authority. There shall be no external lighting on the land except in accordance with the approved details.
10. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping, including the planting of at least 4 trees. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

11. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
12. The site shall not be occupied until the post development and habitat creation and enhancements outlined at paragraph 3.2 of the Stevington Riding Club Biodiversity Assessment, Biocensus (installation of 2 bird and bat boxes and the creation of a log pile) have been fully implemented. These measures shall thereafter be retained.

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