



Appeal Decision

Hearing Held on 3 October 2023

Site visit made on 3 October 2023

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2023

Appeal Ref: APP/C3105/W/23/3317383

The Paddock, Main Street, Great Bourton, Oxfordshire OX17 1QL

- 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 James Doran against the decision of Cherwell District Council.
 - The application Ref 22/01980/F, dated 1 July 2022, was refused by a notice dated 26 August 2022.
 - The development proposed is change of use of land to mixed use for keeping of horses (existing) and as a residential caravan site for 3 gypsy/traveller families, each with a static caravan/mobile home, together with storage of touring caravan and laying of additional hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to mixed use for keeping of horses (existing) and as a residential caravan site for 3 gypsy/traveller families, each with a static caravan/mobile home, together with storage of touring caravan and laying of additional hardstanding at The Paddock, Main Street, Great Bourton, Oxfordshire OX17 1QL in accordance with the terms of the application, Ref 22/01980/F, dated 1 July 2022 subject to the conditions set out in the attached Schedule.

Main Issues

2. The main issues in this case are:
 - The effect on the character and appearance of the area;
 - Whether the development would provide acceptable living conditions for future residents;
 - Whether there would be an unacceptable risk of flooding; and
 - The provisions of and need for sites for gypsies and travellers.

Reasons

Character and appearance

3. The appeal site lies within an area of countryside, between the villages of Great Bourton and Cropredy. The northern part of the site, adjacent to the road and hedgerow, is currently occupied by a substantial stable block with integral toilet/shower and washing facilities, which was granted planning permission in

2015. There are also a couple of smaller utility/storage buildings which accommodate electricity services and portable toilets, although it was not clear that these are authorised. The southern part of the appeal site is rough pasture and forms part of a much larger paddock where the appellant's horses graze. There is an existing vehicular access to the site from Main Street and a public footpath crosses the paddock to the south.

4. The proposal is for a mixed use for the keeping of horses (existing) and as a residential caravan site for 3 gypsy families, each with a static caravan/mobile home and for the storage of one touring caravan. The development would include the laying of additional hardstanding, and it is proposed to erect post and rail fencing with new hedgerow planting to delineate the western and southern boundaries of the site.
5. The National Planning Policy Framework (the Framework) recognises the intrinsic character and beauty of the countryside, and thus the impact of the development on its character and appearance is a relevant consideration in the context of the Framework. However, the Framework and the Planning Policy for Traveller Sites (PPTS) do not establish an objection in principle to gypsy and traveller development in rural areas. Policy BSC 6 of the adopted Cherwell Local Plan, 2011-2031 (LP) sets out how the Council will make provision for pitches and plots to meet the needs of travelling communities, including how it seeks to achieve a five -year housing land supply. When considering new sites, Policy BSC 6 makes provision for new sites outside of the Cotswolds Area of Outstanding Natural Beauty and the Green Belt and it provides a sequential and criteria based approach for considering suitable locations for new traveller sites and determining applications for them. Considerations set out in Policy BSC 6(f) include the potential for harm to the historic and natural environment.
6. The appearance of the surrounding area is rural, and generally characterised by fields and lanes bounded by hedgerows and occasional trees. There is some sporadic development alongside Main Street, including existing stable buildings, some areas of hardstanding and a small neighbouring traveller's site for one gypsy family. Existing development is well screened from the road by the mature hedgerows that align it.
7. It is well established that in practice and reality the development of a site as a residential caravan site for the gypsy and traveller community will have some urbanising impact on the appearance of the countryside, by its very nature. In this case the Council accept that in terms of its location, the site meets the sequential test set out in Policy BSC 6. They are also satisfied that the scale of the proposed development would not dominate the nearest settled community¹. However, it is the Council's view that the proposed development would have a harmful and urbanising impact on the open countryside and would be an undue visual intrusion, detrimental to the character and appearance of the rural landscape.
8. The laying of additional hardstanding with the proposed mobile homes and associated vehicles parked on it, would result in some encroachment of development into the countryside. However, the proposed development would not be isolated, it would be well related to existing built development on the site and to the adjoining caravan site. Furthermore, the mature hedgerow and trees along the site's northern boundary would ensure that the development is

¹ Policy C: Sites in rural areas and the countryside, PPTS.

predominantly screened from the road, with views being restricted to those through the site access.

9. The proposed development would not be visually conspicuous from neighbouring settlements, nor to long range views within the wider rural landscape. Although the caravans would be visible at close range from the neighbouring public footpath, they would be seen in the context of the existing development on the site and neighbouring land. Thus, any harm to the appearance of the area would be localised. I am also mindful that caravans are not an uncharacteristic form of development within the countryside. New planting of native hedgerows/trees along the site boundaries would also help to assimilate the development into the rural landscape in the longer term. I accept that the existing close boarded fence along the eastern boundary of the site is unsightly, however, I understand from the Council that it is unauthorised. Approved new planting along the site boundaries would thus be a visual enhancement and would provide an opportunity on the site for biodiversity gains.
10. For the reasons given above, taking into account local and national planning policies, and subject to proposed landscape planting, I find that any harm to the character or appearance of the area would not be significant. There would be no material conflict with Policy BSC 6(f), or the requirements of Policies ESD 13 and ESD 15 of the LP which seek, amongst other criteria, to respect landscape character and provide appropriate mitigation where necessary. I also find no conflict with saved policies C8 and C28 of the Cherwell Local Plan, 1996 or the provisions of the Framework and PPTS.

Living conditions

11. The appeal site would provide accommodation for three gypsy or traveller families. Whilst no amenity/dayroom building is proposed, the existing approved stable block on the site, which forms a part of the proposed mixed use, includes washing and toilet facilities which would be available for the use of future occupants of the site.
12. Taking into consideration the size of the site, the proposed pitches would not be cramped. The hard surfaced area would not preclude outdoor play and could be utilised for sitting out and/or the of drying clothes. In addition, the adjoining paddock would provide space for outdoor recreation.
13. I conclude that the appeal site would provide acceptable living conditions for future occupiers. I find no conflict with Policy BSC 6(g) of the LP which seeks to provide a satisfactory living environment for gypsy and travellers. I also find no conflict with paragraph 130 of the Framework which promotes a high standard of amenity for existing and future users.

Flood Risk

14. The appeal site lies within Flood Zone 1 of the Environment Agency's mapping system and is thus in an area which is at the lowest risk from fluvial flooding. However, the Council and third party representations are concerned that the amount of hard surfacing proposed, would have the potential to increase the risk of surface water flooding on and off the site.
15. The appellant acknowledges the need for a sustainable drainage strategy. He told the Hearing that results from a recently commissioned study undertaken to

support a drainage condition imposed on the planning permission for the neighbouring caravan site, it was clear that the geology of the land was such that infiltration and soakaways would not be an effective solution. However, that report had demonstrated that the adjacent site could be adequately drained by constructing a new filter drain and swale on adjoining land. The appeal site naturally drains to the south. Considering the size of the appellant's adjoining paddock, which would provide sufficient space to accommodate any required swale or underground storage system, I am satisfied that there would be a technical solution to dealing with any increase in surface water resultant of development on the site. This matter could be secured by a planning condition. It was agreed at the Hearing that foul water could be discharged to the main sewer which adjoins the site.

16. I conclude that subject to a condition to require a drainage strategy for the site to be submitted, approved, and implemented prior to the occupation of the site, there would be no conflict with the requirements of Policy BSC 6 (c) and ESD 6 of the LP, which seek to ensure that development does not increase flood risk on the site or elsewhere.

The provision of and need for gypsy and traveller sites in the area

17. The Council accepted at the Hearing that there is currently a shortfall in the 5 year supply of suitable and deliverable gypsy and traveller sites in the district required by Policy BSC 6 of the LP. Having regard to the 2017 GTAA², the Annual Monitoring Review, 2021 (AMR) undertaken by the Council, and taking into account the loss of eight pitches at Bicester trailer site and recent approved pitches at Kidlington, The Stables, Chesterton, Widnall Lane and Mollington, the Council calculate there is in total an under supply of some three pitches.
18. The appellant considers that the under-supply is likely to be substantially greater. He argued at the Hearing that the GTAA is now six years old and considering the findings of the Lisa Smith Judgement³, there is not an up to date understanding of need for the district. Furthermore, the 2017 GTAA has not been through the Local Plan examination process and the response rate to interviews in the GTAA and AMR was less than 20%.
19. Although the Council intend to allocate sites through a further review of its development plan, they are currently unable to identify any suitable or available sites. There is clearly a need for further pitches to be delivered and the absence of a 5 year supply of specific deliverable sites provides weight in support of allowing the appeal.

Other Matters

20. The appeal site lies within an area of archaeological interest and there is some evidence of ridge and furrow in this location, and in particular within the adjoining paddock. The Council has not raised any objections in principle to the proposal on archaeological grounds, but to safeguard and protect any archaeological significance of the site they consider that it is necessary to impose a condition on any consent granted to require the submission and approval of a Written Scheme of Archaeological Investigation (WSI) for the site. From the evidence before me I see no reason to disagree.

² Gypsy, Traveller and Travelling Showpeople Accommodation Assessment, ORS, June 2017.

³ Smith v SSLUHC & Ors [2022] Civ 1391

Planning Balance

21. I have found no conflict with the development plan read as a whole. For decision taking this means approving development proposals that accord with the development plan. The development would also accord with the provisions of the Framework and national planning policy set out in the PPTS. There are no material considerations which by themselves or cumulatively would indicate that planning permission should be withheld.

Conditions

22. I have considered the need for conditions put forward by the Council in the light of the Planning Practice Guidance and the discussion at the Hearing. It is necessary to specify the approved plans. A condition is necessary to restrict the occupation of the site to gypsies and travellers to secure the site as part of the Council's supply of traveller sites against future identified need. It is also necessary to condition the number of pitches and caravans to safeguard amenity.
23. In the interests of the appearance of the site, it is necessary to require a scheme of soft landscaping to be submitted, approved and retained. It is also necessary to control the hard surface materials, any external lighting, fencing and other means of enclosure and to prevent the stationing and storage of vehicles over 3.5 tonnes.
24. To minimise the risk of flooding from surface water it is necessary to impose a condition to require a scheme of drainage for the disposal of surface water and a WSI is required to safeguard the archaeological interest of the site.
25. I have not imposed conditions suggested relating to contamination as there is no evidence of the site being previously developed land or contaminated. A construction method statement is not necessary given the scale and nature of the proposed development. The site has an existing wide access which is gated, hard surfaced and with good visibility. I have not been provided with any substantive evidence that would suggest that improvements are required to the access that would need to be secured by condition.

Conclusion

26. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should succeed.

Elizabeth Pleasant

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Phillip Brown BA (Hons) MRTPI

Phillip Brown Associates

FOR THE LOCAL PLANNING AUTHORITY

Andrew Bateson BSc (Hons) MRTPI

Development Management Team Leader

Chris Wentworth BA (Hons) MRTPI

Principal Planning Officer

Documents submitted at the Hearing:

- 1) Flood Risk Extract.
- 2) Gypsy, Traveller and Travelling Showpeople Accommodation Assessment, ORS, June 2017.
- 3) LPA Ref: 17/00488/F, Land to the North East of 8 Manor Park Road, Hampton Poyle, Kidlington.
- 4) Suggested Modified Conditions.

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: Site Location Plan, Scale 1:1250; Site Layout Plan, Scale 1:500; Fence Details, Drawing No. PBA 2, Scale 1:20.
- 3) No development hereby permitted shall commence until drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Section 14 of the National Planning Policy Framework, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 4) No development shall take place until a Written Scheme of Archaeological Investigation, including details of recording, shall have been submitted to and approved in writing by the local planning authority.
- 5) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 4.
- 6) No development shall take place until details of the materials of the proposed hardstanding and a soft landscaping scheme, to include species, plant sizes, proposed numbers and densities and a landscape maintenance plan has been submitted to and approved in writing by the local planning authority. These details shall include an implementation programme. The development shall be carried out in accordance with the approved details.
- 7) 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 health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of traveling show people or circus people travelling together as such.
- 8) There shall be no more than three pitches on the site laid out in accordance with the approved Site Layout Plan (Scale 1:500).
- 9) No more than 4 caravan(s), 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, and of which no more than 3 shall be static caravans/mobile homes.
- 10) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 11) No external lighting shall be installed on the site without the prior written approval of the local planning authority.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no walls, fences or other means of enclosure, other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

END OF SCHEDULE