



Appeal Decision

Site visit made on 5 December 2023

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/R3705/W/23/3314041

Barn Fishery, Atherstone Road, Hartshill, Warwickshire CV10 0JB

- 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 Willy McGinley against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2021/0044, dated 14 January 2021, was refused by notice dated 5 July 2022.
 - The development is change of use of land to use as residential caravan site for 6 touring caravans, laying of hardstanding and ancillary development.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by North Warwickshire Borough Council against Mr Willy McGinley. That application is the subject of a separate Decision.

Preliminary Matters

3. The description of the development given in the header above is taken from the application form. The supporting information submitted with the application set out that the six touring caravans would only be needed for three years whilst the occupiers (the appellant and his sons) converted the barn at the site to a dwelling in accordance with an extant planning permission. It was stated at that time by the appellant's agent that permission was sought for a temporary planning permission and not for a permanent gypsy caravan site, albeit the occupiers are Irish travellers. That is the basis on which interested parties were consulted and on which the Council made their decision.
4. The appeal submission however suggested the proposal was for a permanent gypsy traveller site and the appellant's agent confirmed that the development was not for a temporary use of the land. This is a fundamental change to the nature of the development. As set out in the government's Planning Appeals Procedural Guide *"the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage."* On that basis, I have considered the scheme as originally detailed in the application.
5. At my site visit there were six touring caravans on site, of which four were roughly in the positions shown on the submitted plans, some toilet blocks and some hardstanding. Some caravans were on site at the time of the Council's

decision. I have considered the development on a retrospective basis. In addition, there was a large wood-clad day room on site and entrance gates with flanking piers and walls.

Main Issues

6. The main issues are the effect of the development on the character and appearance of the area, and whether the development is served by a safe access.

Reasons

Character and appearance

7. The appeal site is accessed by a long, partly unmade, track that passes through a large caravan site known as Kirby Glebe, with a total of 31 pitches spread either side of the track. The appeal site is to the west of Kirby Glebe.
8. Kirby Glebe is bordered by railway lines to the north and mostly open farm land to all other sides. Despite the few dwellings along Atherstone Road close to the access point, the wider setting is largely rural. Across the Kirby Glebe site there is a sense of consistency in the size of the plots and boundary treatment which clearly identifies each pitch. Indeed there is a close boarded fence of around 2m in height on the west side of Kirby Glebe, which creates a sense of separation from the surrounding land, including the appeal site.
9. The appeal site is also separated from Kirby Glebe by a substantial gap. Although the vehicular access extends from the west end of Kirby Glebe, there is a pond to the north side of the access and a field to the south. This acts a strong visual break between the caravans at the appeal site and those on the pitches within Kirby Glebe. Moreover this results in the appeal site appearing as being wholly surrounded by undeveloped land.
10. The site also differs from Kirby Glebe by being bordered by low post and rail fencing. This allows the caravans and other structures on site to be clearly seen from the public footpath that runs west of the site. There are some hedges on the field boundaries between the site and the footpath, but there are also significant gaps between them, notably near where the path is closest to the site. As such, in the context of the open and undeveloped land that surrounds the appeal site, particularly the fields between the footpath and the site, the caravans and other structures on site appear incongruous.
11. The principle of caravans in the countryside is not disputed, and it should not be necessary to wholly obscure the views of caravans. To that end, new hedge planting is proposed to run along the boundaries of the appeal site. However this should not be relied upon to alleviate the visual harm resulting from this temporary development.
12. Views from other positions are more limited, with the railway line blocking views from Nuneaton Road and thick hedging screening views from Atherstone Road and the Coventry Canal. The caravans on site are visible from some positions in the Hartshill Hayes Country Park and from the residential development at the northern edge of Hartshill, but this is at a considerable distance.

13. The extant planning permission for the conversion of the barn would result in the residential use of part of the appeal site, and that use would undoubtedly be visible from similar positions. But the development before me is distinctly different; extending further to the west, and hence closer to the public footpath, and involves more structures.
14. The North Warwickshire Landscape Assessment identifies the site as being within the Anker Valley sub-area which includes the open landscape of the broad valley as one of its key characteristics. The development, by being detached from Kirby Glebe, by extending over a greater area than the extent of the site subject of the existing permission, and by projecting further west than both, detracts from that openness.
15. Overall, even for the temporary period proposed, the development has a harmful impact on the character and appearance of the area. It therefore fails to comply with North Warwickshire Local Plan (NWLP) policies LP1, which sets out that development must integrate appropriately with the natural environment; LP30, which requires all development to respect the existing character and appearance of its setting; and policy LP14, which states that development should look to conserve landscape character. It is also contrary to policy DP1 of the Mancetter Neighbourhood Plan (MNP) which aims to ensure that development has regard to its setting and the character of the local area.
16. I have no evidence to demonstrate that the development conflicts with policy BE2 of the MNP referred to in the Council's decision. In particular it would not impact on any of the identified key views. Although NWLP policy LP10 is referred to in the decision notice and the Council's evidence, I consider this to have limited relevance to the proposal as the development is not for a Gypsy site, which is what the policy refers to.

Access

17. The access road serving the appeal site also serves the caravans at Kirby Glebe. It therefore already serves a considerable number of residents and was in regular use during my site visit. The first part is hardsurfaced and is wide enough for two cars to pass each other or for a vehicle to pass a pedestrian. The access onto Atherstone Road is by way of a dropped kerb, but it splays to either side and there is good visibility in both directions.
18. There is a bus stop to the south of the access with a small hardsurfaced waiting area. Although this area could only accommodate one or two people, it is unlikely that there would be more than that waiting at any one time given the relatively limited number of properties nearby. There was no evidence of this waiting area being overrun by vehicles. Overall, it is considered that the dimensions of the access are satisfactory to accommodate the limited additional traffic that could be generated by the development.
19. In recent appeals relating to the caravans at Kirby Glebe, the Inspector found that a condition could be imposed to resolve remaining concerns the Council had in respect of the access, including the lack of information of its construction, drainage details and raised or incorrect kerbs. Although I understand the deadline for compliance with these conditions has passed without them being discharged, I consider similarly worded conditions could be used in this case were I minded to allow this appeal, which could be enforced

by the Council. As the access is on land beyond the appellant's control, any condition would need to be a 'Grampian' style condition.

20. It is considered, therefore, that the development would, with suitable conditions in place, be served by a safe access. It would accord with NWLP policy LP29 which requires developments to provide safe and suitable access for all users.

Other Matters

21. The impact on the character and appearance of the area would not be permanent, in light of the justification originally given for the development. However, around three years have passed since the original submission and aside from works to the roof, removal of one internal wall and installation of electricity and drainage, no other conversion works appear to have taken place. Indeed, significant further work would be needed to make the barn habitable. Clearly, therefore, were the appeal to be allowed it would need to be for an additional period of time which would result in the caravans being on site for further time in addition to the years they have already been there. Consequently, the impact on the character and appearance of the area would also be extended. As such I give little weight to the temporary nature of the impact.
22. There are permitted development rights which allow the stationing of caravans during building works, and under such circumstances, there is no limit to the number of caravans or the length of time that the caravans may be stationed on the site. This is a valid fall back option. However, as acknowledged by the appellant, the laying of hardstanding and provision of toilet blocks go beyond what would be covered by those rights. Moreover, the provision of these additional works, plus the works that have taken place that were not described in the application, such as the day room and entrance structures, are all generally permanent works. As the fall back is vastly different to the current situation on site, I consider it not to be a likely option and therefore give it limited weight.
23. I have been provided with letters relating to the medical condition of the appellant's wife. However these do not demonstrate that remaining at the site is essential to support her care or wellbeing. I have therefore had little regard to this matter.
24. Evidence pertaining to the Council's supply of gypsy and traveller sites was provided with the appeal. However, this has had no bearing on my decision as the development is not for a gypsy or traveller site.
25. Irish travellers share the protected characteristic of race for the purposes of the Public Sector Equality Duty under s149 of the Equality Act 2010 which sets out the requirement to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not. I consider the harms resulting from the development, as identified above, would outweigh the benefits in terms of advancing equality.

Conclusion

26. Although the access would, subject to conditions, be safe, the effect on the character and appearance of the area means the proposal conflicts with the

development plan taken as a whole. There are no other material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, the appeal is dismissed.

A Owen

INSPECTOR