



Appeal Decision

Site visit made on 23 January 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2024

Appeal Ref: APP/Q3115/W/23/3319460

Land At Bishopswood Camp, Gallowstree Road, Sonning Common RG4 9BT

- 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 J and C Ayres against the decision of South Oxfordshire District Council.
 - The application Ref P22/S3244/FUL, dated 2 September 2022, was refused by notice dated 30 November 2022.
 - The development proposed is 2 Gypsy pitches with dayrooms associated parking, access and services.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It is clear from the description of the development and submitted information that the proposal would provide residential accommodation for Gypsies and Travellers, although no specific occupiers have been identified. I have assessed the appeal on this basis.
3. Information on ground contamination, the effect on trees, traffic speeds and visibility splays as well as a dormice survey report have been submitted with the appeal. Also, an amended drawing numbered 1036/07A has been provided that shows revisions to the proposed landscaping. None of these documents were with the Council at the time it refused planning permission but there has been opportunity through the appeal process for comments to be made on this additional information. Furthermore, the changes do not affect the fundamental elements of the proposal. I am satisfied that taking the submissions into account would cause no injustice to the Council or interested parties.
4. Since the Council's decision, the Sonning Common Neighbourhood Development Plan Review (NDPR) has been adopted. The NDPR policies supersede those from the Sonning Common Neighbourhood Development Plan 2016 as mentioned in the Council's refusal reasons. My assessment is based on the NDPR policies as referred to by the Council and the appellants.
5. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023. The revisions do not materially change the planning policies pertinent to the main issues for this appeal. As such, no injustice would be caused to any party by considering the Framework in my assessment. On the same date, the government published an amendment to the Planning Policy for Travellers Sites (PPTS) and the definition it contains for Gypsies and

Travellers. I have had regard to this revision as well as the parties submissions on the change.

6. On 22 November 2023, all designated Areas of Outstanding Natural Beauty in England and Wales became 'National Landscapes'. However, the legal designation and policy status of these areas are unchanged and so I have continued to use the term 'Area of Outstanding Natural Beauty'.

Main Issues

7. In light of the aforementioned extra material provided with the appeal, the Council says its concerns on ground contamination and highway safety have been addressed. I find no reason to disagree with the Council on these matters.
8. Therefore, the main issues are (i) whether the development would conserve or enhance the landscape character and scenic beauty of the Chilterns National Landscape Area of Outstanding Natural Beauty (the AONB), (ii) the effect on biodiversity, (iii) the effect on dormice, (iv) whether the development would be located in a suitable location having regard to accessibility to services and relationship to existing settlements, and (v) the effect on trees.

Reasons

The effect on the AONB

9. The site is in the AONB. The immediate area is predominantly rural in nature, characterised by hedges and trees alongside large parts of the roads with views through gaps of fields and woods. The nursery school next to the site is partially screened from the road by vegetation and, despite its presence, the locality has an attractive, natural feel. The site forms part of the countryside between the settlements of Sonning Common and Gallowstree Common. The limited number of buildings, the vegetation and visual qualities of the locality contribute positively to the landscape and scenic value of this part of the AONB.
10. The appeal site itself includes remains of buildings. A public footpath crosses the site from the road to a wooded area to the south and east. A fence lies on both sides of the footpath, although on my visit I saw that this had partly collapsed and was incomplete.
11. The remnants of the buildings and the fence detract from the natural and visual qualities of the site. However, the buildings' remains are not prominent from the road as ruderal vegetation has resulted in a degree of assimilation. Also, gaps between the tall trees and hedging on the frontage allow views from the highway across the site towards the adjacent wooded area and the edge of the playing fields behind. In these respects, the site adds to the countryside feel of the area and the qualities of the AONB.
12. The proposed pitches would be positioned on each side of the footpath. Each would have its own vehicular access and contain a static accommodation unit, a dayroom and a store building as well as parking spaces and a vehicular turning area. The rear of the site and the space between the pitches would become grazing land. The footpath would be maintained and the appeal drawings indicate new stock fencing on either side.
13. The pitch referred to as plot 2 would be served by a new vehicular access. There would be views from the road through this access towards the

development. Also, the pitch is likely to be seen through gaps in the roadside vegetation, particularly as parts would be removed or cut back to provide visibility splays. There would also be views from the highway of the features on plot 1 through its access and the boundary vegetation. Furthermore, there would be views towards both pitches from the public footpath. There would be no sight of the development from the wider countryside but it would have a localised visual effect, noticeable at fairly close proximity by users of the road and the public right of way.

14. The caravans, buildings, parking and associated domestic activity on both pitches would clearly change the nature and appearance of the site. The structures would be fairly low level and they would be screened to a degree by existing and proposed vegetation. Also, it is likely that the level of activity from 2 pitches would be fairly minor. Even so, I am unconvinced the proposed landscaping would entirely conceal the development, particularly as there would be potential public vantage points from the road and from the footpath. Where visible, the static units would appear unusual to the locality. The caravans, the buildings and residential activity on each pitch would spoil views of nearby natural features and undermine the rural feel of the area. The presence of the adjoining nursery would not address nor justify the harmful effects of the development.
15. The remains of buildings and the fence to the footpath would be removed as part of the scheme. Also, ruderal vegetation would be replaced by grazing land with new indigenous hedging on the site boundaries, along the footpath and around each pitch. These aspects of the scheme would, in themselves, improve the appearance of the site. However, it is likely that any visual enhancements would be seen with the proposed static units, buildings and residential activity. Despite the screening effects of proposed planting, I envisage these would be the most obvious elements of the development. As such, the proposal when considered overall would have a harmful visual effect.
16. The pitches would be seen as encroachment into the countryside. As a result, the openness of the land between Sonning Common and Gallowstree Common villages would be reduced. The detriment in these regards would be fairly minor as only a small part of the gap between the settlements would be lost. Even so, this would add to the overall harm caused by the proposal.
17. For the above reasons, I conclude the development would not conserve or enhance the landscape character and scenic beauty of the AONB. In these regards, it would not accord with policies ENV1 and H14 of the South Oxfordshire Local Plan 2020 (LP) and NDPR policy RENV2. Amongst other things, these seek to ensure development does not have an adverse effect on the landscape and that it conserves or enhances the character and natural beauty of the AONB.

Effect on biodiversity

18. LP policy ENV3 states that development should, as a minimum, avoid a loss of biodiversity. All proposals should be supported by a recognised biodiversity accounting metric that demonstrates compliance with this requirement. The policy applies even if a site is not recognised for its wildlife value.
19. The appellants have provided a preliminary ecological appraisal (PEA) but this contains no metric that describes the biodiversity value of the site as it stands

and how this would be affected by the development. The existing scrub and bracken would be replaced by grazing land, which the Council suggests would be of lesser biodiversity value. The proposed hedgerows may mitigate for the removal of any existing hedging to the front of the site to provide visibility splays and to allow for new drainage. However, without the required metric information, I cannot be sure the development would avoid a net loss of biodiversity in overall terms.

20. Therefore, I conclude the proposal would have a harmful effect on biodiversity. In these regards, it would be contrary to LP policy ENV3.

Effects on dormice

21. The Conservation of Habitats and Species Regulations 2017 (as amended) impose a duty on me to consider whether European Protected Species would be affected by the development and whether associated mitigation measures would be effective. Dormice are so protected.
22. The PEA recognises a potential for dormice to be present in the roadside hedge on the site. The dormice survey report provided with the appeal describes a survey that has been carried out and reports that no dormouse was found during the survey period.
23. However, as pointed out by the Council, it would seem from the information in the dormice survey report that only the roadside hedge to the front of plot 2 was surveyed. There is no indication that the hedge to the front of plot 1 has been assessed. It would appear from the appeal drawings that parts of this hedge would be affected by the creation of proposed visibility splays. Therefore, it is unclear whether the development would affect dormice.
24. Moreover, with reference to guidance in the Dormouse Conservation Handbook published by English Nature, the Council contends that too few nest tubes were used for the dormice survey. As such, it is advanced that the survey results cannot be relied upon. The appellants have not sought to dispute the Council's contentions in these respects and so they add to the doubt over the validity of the survey's conclusions.
25. Paragraph 99 of the Office of Deputy Prime Minister's Circular 06/2005 (ODPM Circular) says it is important to ascertain the extent to which protected species may be affected by development before granting planning permission. Due to the shortcomings of the survey, the extent to which dormice may be present on the site has not been adequately ascertained. The imposition of a planning condition to address this issue would be inappropriate as it would go against advice in the ODPM Circular and not allow me to carry out my regulatory duty.
26. Therefore, I conclude that insufficient information has been provided to show the development would avoid harm to dormice. Moreover, it has not been shown whether any harm that may be caused to the species could be avoided, mitigated or compensated for. In these respects, the proposal would be contrary to the provisions of LP policy ENV2 that seek to avoid harm to protected species.

Suitability of location

27. Residents of the development would be able to easily walk to the adjacent nursery and playing fields. However, the main concentration of facilities at

Sonning Common and Gallowstree Common would be beyond a reasonable walking distance for most people. Also, there is no pavement to the side of the road and it is unlit and so the highway would not be a safe or attractive walking route. The footpath across the site would provide a pedestrian link away from traffic to Sonning Common, although this is unlikely to be used as a regular route as it leads through woods and is unlit and unsurfaced. While there is some scope for walking, I envisage that most trips to and from the development would be by private car. In these respects, the scheme would not fully accord with the aim of LP policy TRANS2 and the Framework to promote sustainable travel.

28. At the same time, I am mindful that the criteria as set out in part 2 of LP policy H14 does not require Gypsy and Traveller sites to be located so as to allow trips by non-car modes of travel. Moreover, occupiers of the pitches would have fairly short car journeys to access education and health facilities in Sonning Common as well as employment opportunities in the area. In these regards, the development would meet the aim as set out in paragraph 4j) of the PPTS to provide Gypsy and Traveller accommodation where such facilities can be accessed. Again, there is no requirement under the PPTS for such services to be accessible by foot or any other particular mode of travel.
29. Paragraph 13a) of the PPTS seeks to ensure Gypsy and Traveller sites are located so as to promote peaceful and integrated co-existence with the local community. The development would be set away from the nearest built up areas but it would be close enough to allow occupants fairly easy access to community facilities in Sonning Common and Gallowstree Common. As such, it would promote integration to a satisfactory extent.
30. The PPTS at paragraph 25 states that new Gypsy and Traveller sites should be very strictly limited in open countryside away from existing settlements. However, this does not preclude such sites in the countryside. The proposal would be a fairly minor development in terms of its scale and it would not dominate Sonning Common as the nearest settlement. Moreover, given its proximity to the adjacent nursery the development would not be isolated. As such, paragraph 84 of the Framework and the advice against isolated new homes in the countryside does not apply.
31. An Inspector who dealt with previous planning appeal reference number APP/Q3115/W/16/3165089 concluded that proposed housing on the appeal site would be in an inaccessible location and reliant on the private car. However, the planning policy for Gypsy and Traveller sites is different to that for new houses. LP policy H14 and the PPTS are directly relevant to the appeal proposal and the development would generally accord with these in terms of its location and links to facilities.
32. Given the overall planning policy context, I conclude the development would be in a suitable location having regard to accessibility to services and relationship to existing settlements. Any non-compliance with LP policy TRANS2 and the Framework is justified for the reasons given above. Acceptability in these regards is a neutral factor in my overall assessment of the appeal.

Effect on trees

33. A tree preservation order covers 4 oaks and an ash on the appeal site. Most of the development would be set away from the protected trees and those along

the roadside boundary. However, the proposed access to plot 1 and a service route for drainage to the same pitch would be close to trees.

34. A vehicular crossover and gate already exists at the location of the entrance to plot 1. This access could be retained and appropriately upgraded without significant ground works or harmful effects on the nearby trees. A suitable construction method could be secured through a planning condition.
35. There is limited information on the required depth of the drainage pipe from pitch 1 to the mains in the highway. Without such information, I can understand the Council's concern over whether hand excavation, air spade or soil vacuum methods could be utilised without significant damage to tree roots. However, the site has a wide frontage that provides significant scope for new drainage connections to be provided between trees shown to be retained. Indeed, there seems to be no reason why plot 1 and plot 2 could not share a foul drainage link to the system within the road. The Council has suggested a planning condition that would require approval of the routes and method of installation for drainage systems. Such a condition would address concerns over the effects of excavations.
36. For these reasons, I conclude the development would not cause harm to the trees on the site. In these respects, it would accord with LP policy ENV1 and NDPR policy RENV3. Amongst other things, these require development to avoid unnecessary loss of trees. The lack of harm in these regards is a neutral factor in my overall assessment.

Other considerations and planning balance

37. For the reasons set out under the first 3 main issues, the proposal would not accord with the development plan policies when read as a whole. It follows to consider whether other factors justify granting planning permission contrary to the development plan.
38. There is a requirement under paragraph 9 of the PPTS for local planning authorities to set targets for the provision of Gypsy and Traveller pitches. Paragraph 10a) of the PPTS says local authorities should identify and update annually a supply of deliverable sites sufficient to provide 5 years' worth of sites against their targets.
39. LP policy H14 proposes the delivery of 10 Gypsy and Traveller pitches at identified locations. However, the Council accepts that none of these are currently deliverable and none will be delivered until after 2026. Therefore, a 5 years' supply of sites for pitches cannot be demonstrated.
40. The number of pitches proposed under LP policy H14 has been informed by a Gypsy and Traveller Accommodation Assessment from 2017 (the GTAA). The GTAA extracts provided to me indicate a potential additional need arising from people who did not meet the previous PPTS definition of Gypsies and Travellers but who would meet the current definition. As such, there could be a need for more pitches than the 10 allocated under LP policy H14. In any event, there is an identified need for pitches and the Council has not shown this could be currently addressed through the provision of sites elsewhere. Within this context, an additional 2 pitches would be a significant benefit.
41. The appellants contend that the shortfall in the supply of pitches demonstrates a failure of policy. However, LP policy H14 sets out the circumstances where

additional pitches over and above the 10 identified will be permitted. This part of the policy allows extra pitches where there is an identified need and where certain clauses are met. As such, I am satisfied that the shortfall in pitch provision is not due to a failure of policy. The appellants' contentions in these regards carry little weight.

42. In allowing temporary planning permission for the use of a site in Garsington as a travellers' caravan site¹, the Inspector gave significant weight to the personal circumstances of the occupiers. Such factors do not apply with this appeal as the occupants have not been identified. Accordingly, this previous decision fails to influence my assessment of the current proposal.
43. I am also referred to another appeal that allows the construction of a dwelling on a site in Buckinghamshire². This relates to a different type of development than this appeal proposal and on a site where different development plan policies apply. As such, it has little bearing on my deliberations.
44. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. This sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not share it. This includes those of a particular race and so potentially occupants of the development. Refusing planning permission would deny Gypsies or Travellers an authorised place to reside and the opportunity to foster relationships with the local community. These factors add support for the proposal.
45. However, the overall harm identified in respect of the first 3 main issues attracts significant weight. The benefits of the scheme do not outweigh this detriment and do not justify granting planning permission contrary to the development plan. Also, the adverse impacts of dismissing the appeal on the interests of particular ethnic groups that may occupy the development would be a proportionate response to the PSED.
46. I have considered whether to grant temporary planning permission. However, the development would still cause detriment to the AONB even if temporarily. Also, a loss of biodiversity and harm to dormice may still occur. Accordingly, the proposal would still be contrary to development plan policies, even if allowed for a temporary period. The benefits of the proposal would not be sufficient to outweigh the detriment caused by a temporary development.

Conclusion

47. For the reasons given above, I conclude that the appeal should be dismissed.

Jonathan Edwards

INSPECTOR

¹ Appeal Ref: APP/Q3115/W/20/3263366

² Appeal Ref: APP/X0415/C/22/3293635