



Appeal Decision

Hearing held on 13 December 2023

Site visit made on 13 December 2023

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/P1560/W/23/3326308

Land to The East of Straight Road, Bradfield, Essex, CO11 2RA

- 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 S Hedges against the decision of Tendring District Council.
 - The application Ref 23/00525/FUL, dated 8 April 2023, was refused by notice dated 13 June 2023.
 - The development proposed is described as 'Part retrospective application to create 4no plots for residential use by Gypsy and Traveller family with associated works including new access, erection of fencing, installation of cesspit, soft landscaping, dayroom and hardstanding'.
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Decision

1. The appeal is allowed and planning permission is granted for Part retrospective application to create 4 no plots for residential use by Gypsy and Traveller family with associated works including new access, erection of fencing, installation of cesspit, soft landscaping, dayrooms and hardstanding at Land to The East of Straight Road, Bradfield, CO11 2RA in accordance with the terms of the application, Ref 23/00525/FUL, dated 8 April 2023, subject to the conditions in Annex A.

Preliminary Matters

2. It was evident on the site visit that the proposed layout plan for the site does not fully accord with what is already there. The change of use of land has commenced and there are some caravans on site so the scheme is part retrospective in that regard. The siting of new dayrooms is prospective. There were also a number of shed structures on site which are not shown on the plans.
3. Therefore I decided the appeal on the basis of the proposal as set out in the submitted planning application and the drawings accompanying it. Thus, whilst appreciating that the use has commenced, I will continue to refer to the scheme overall as a proposal.

Main Issues

4. The Council confirmed that having considered the information provided by the appellant that it no longer wished to defend reason 1 on its decision notice. Notwithstanding this there were some points arising from the Statement of Common Ground (SOCG). As such these matters were addressed at the hearing in relation to main issue 1 as set out below.

5. I was provided with a signed and dated copy of the planning obligation¹ which provides a Recreational Disturbance, Avoidance & Mitigation Contribution. As such the Council did not pursue reason 4 of its decision at the hearing. I will take the obligation into account in reaching my decision.
6. Accordingly the main issues in the appeal are:
 - The provision of and need for traveller sites in the district, having particular regard to Local Plan (LP) policy LP9;
 - Whether the proposal would have satisfactory access to transport and services;
 - The effect of the scheme on the character and appearance of the area; and
 - The effect of the scheme on designated European conservation sites.

Reasons

Provision of and need for traveller sites in the district

7. The Council indicates that the projected future need for five gypsy and traveller pitches in Tendring up to 2033, as identified in the Gypsy and Traveller Accommodation Assessment (GTAA) can be met in full through sites that have already obtained planning permission. The Parish Council also made a submission on this matter supporting the Council's evidence on this point. Nonetheless the development plan is clear that, in accordance with the PPTS, any additional applications for pitches to meet the needs of gypsies and travellers will be considered again the criteria based Policy LP9.
8. It is common ground between the two main parties that this is the correct approach to this case and that the remaining dispute is focussed upon reasons 2 and 3 of the Council's decision². These relate to LP Policy LP9 part (b) regarding the access of the site to facilities and the effect on the character and appearance of the area and are considered in main issues 2 and 3 below.

Site Location/access to transport and services

9. Policy LP9 sets out the approach to gypsy and traveller sites in the district. It requires any scheme to be considered against the criteria listed. Part (b) of the policy is relevant to location and sets out that sites must have access to key facilities including schools, doctors' surgeries, convenience shops and employment sites.
10. The site is located adjacent to the settlement boundary for Bradfield. Within the LP Bradfield is classed as a Smaller Rural Settlement. The supporting text to LP Policy SPL1, which seeks to manage growth in the district, articulates that the smaller villages are often reliant on neighbouring towns and villages for work, shopping and other services which may require travel by public transport or private car. It also acknowledges that some sympathetic small scale development in these villages may be appropriate where there are no harmful effects.

¹ HD2

² Statement of Common Ground Page 2 – Reasons for Refusal

11. The site is located on the edge of the village between existing properties on Straight Road. Windmill Road is located further to the east. Straight Road does not have footpaths. There is an existing footpath between Straight Road and Windmill Road. Windmill Road does have a footpath on one side and links into the village. As such, it would be possible for occupiers of the site to access the services and facilities within Bradfield on foot or by cycle, and there would be some choice on mode.
12. There is agreement that Bradfield has a convenience store (including Post Office), a school, village hall, two public houses and places of worship. There is no dispute that there is no doctors surgery and that there is not an employment site. As such there would be a need to look beyond Bradfield for some service and facilities. Access to settlements beyond Bradfield where there are more services would potentially be by private car.
13. The test of the policy as set out is 'reasonable access to key facilities.' It does not say that this access must be solely on foot or indeed by public transport. I appreciate that Bradfield has some services and not others. Nevertheless, other services are not an excessive distance away albeit in a nearby settlement. In addition to this, the PPTS accepts that many sites will be in rural areas and at paragraph 13 considers the sustainability of traveller sites in the round. In this case the provision of a settled base for four families would promote access to health services, school attendance and potentially reduce the need for long distance travel where some occupants live and work from the same location.
14. Based on the above factors, I consider that occupiers of the proposed development would not be overly reliant on the private car to access a range of services and facilities. As such, the development would have reasonable access to key facilities and be in a suitable location in this respect. Therefore, it would accord with part (b) of LP Policy LP9 and paragraph 13 of the PPTS.

Character and appearance

15. The appeal site is a plot of land located along Straight Road with a frontage onto it. To one side it has a run of detached dwellings which front the road with substantial garden areas to the rear. To the north of the site on Straight Road is a further detached dwelling in a generous plot. Beyond Straight Road is the wider countryside landscape within which the village of Bradfield sits. The change of use of land and stationing of caravans would represent a change in the character of the site from an open area between existing dwellings. However the site would be well related to the settlement of Bradfield and fill a gap in a predominantly built frontage along Straight Road.
16. The proposed mobile homes would be single storey, but I note that they would be of a design and materials at odds with the adjoining housing. In addition I understand that there is concern about the change in character of the site to include a significant amount of hardstanding³. The touring caravans would be smaller but still different in terms of its appearance to nearby housing. The utility blocks would incorporate a suitable palette of materials, and such would be more in keeping with surrounding buildings. At the hearing the appellant explained that they would be willing to provide a detailed landscaping scheme by condition. This is shown in principle on the plans along with the position of

³ 4.21 and 4.22 Council's Statement of Case

post and rail fencing and would serve to lessen the impact of the changes on site.

17. The structures would be set back from the road frontage and overall the collective number of structures with mitigation in place would not dominate the site. It was agreed at the hearing that there would not be medium or long views of the site and that any views of the scheme would be localised. Taking all these factors into account, I find that the siting of the various structures and the additional planting scheme would help to greatly mitigate the effect of the proposed development on the character and appearance of the area. Even in winter months views of the development would be limited. Overall there would be no significant harm to the landscape or rural character. Given that a landscaping scheme is necessary in order to make the development acceptable, it should be agreed to a detailed time frame to ensure that the Council are satisfied with the details.
18. Therefore I consider that the proposal would not have a harmful effect on the character and appearance of the area. It would not be in conflict with LP Policy PPL3 which seeks to protect the rural landscape, LP Policy SP7 which seeks high standards of urban and architectural design which responds positively to local character and context, or with LP Policy SPL3 that requires, amongst other things, that the development respects or enhances local landscape character, views, street patterns and other locally important features.

Appropriate assessment

19. The proposal is within the identified Zone of Influence for European Sites covered by the Stour and Orwell Estuaries RAMSAR and SPA⁴. The qualifying features of the site are that they provide coastal habitats for internationally important numbers of breeding and non-breeding birds. The conservation objectives are to seek to ensure that levels of bird disturbance are not increased.
20. The future occupants of the pitches would be likely to use the Essex Coast thereby increasing visitor pressures on the protected habitats, leading to potential harm. I therefore consider that the effects of the proposed scheme, both on its own and in combination with other development projects, is such that they are likely to have significant effects on the integrity of these habitats. In such circumstances, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) indicates the requirement for an Appropriate Assessment (AA). As the Competent Authority, I have therefore undertaken an AA.
21. Various mitigation measures in response to the pressures on the habitat that I have identified above are set out in the Essex Coasts RAMS Strategy 2018-2038. The measures include water recreation restrictions, rangers and in some cases restricted access. It is a comprehensive suite of mitigation measures. Funding for the measures is calculated and a per dwelling averaged cost provided. I am satisfied that the mitigation payment is required to avoid an adverse effect on the integrity of the European sites.

⁴ Appendix 3 and 4 to the Council's Statement of Case

22. The Council's documentation includes their own assessment of the scheme for the purposes of the Habitats Regulations⁵. This notes that there was no requirement to consult Natural England due to the specified mitigation being agreed and in place for the Essex Coast as set out in the RAMS Strategy.
23. The appellant has provided a signed and dated legal agreement⁶. I am therefore satisfied that the necessary mitigation payments would be secured. This is necessary and would ensure that there are no likely significant effects on the European sites. Therefore, the integrity of the European sites would not be adversely affected, and the proposal would comply with LP Policy PPL4 in this respect.

Other Matters

24. At the hearing I heard from the appellant's team regarding a number of personal circumstances⁷ they considered to be relevant to the case. In particular it was stated that the appellant and her family were previously moving around Essex before owning the appeal site, the family group wish to remain together, there are children on the site for who this would provide a settled base and access to education and there is a medical need for a settled base for one of the occupants. These are all matters that weigh in favour of the appeal scheme.
25. I am aware that a previous appeal decision⁸ for three dwellings on the site was dismissed. This scheme was an outline consent for dwellings and as such is not directly comparable to the scheme before me. I have considered this decision carefully but afford it limited weight in my considerations.
26. Bradfield Parish Council and local residents have raised objections to the scheme⁹. In addition to the matters covered as main issues concerns were raised regarding the future of the remaining land, that the appeal scheme is effectively housing and that Tendring does not need new homes, as well as in relation to local drainage.
27. I have carefully considered the issues raised. Any proposal for other land in the appellant's ownership would have to be judged on its merits should it come forward. The appeal scheme is made for gypsy and traveller accommodation and such I am required to consider it against LP policies and national policy for this type of development. I understand that Tendring has a supply of homes, many of which are in close proximity to the appeal site. However, I am required to judge the scheme before me on its merits and in this case, I have found that there is no conflict with the Council's policy for the provision of gypsy and traveller accommodation where applications come forward for additional pitches.
28. In respect of drainage, I understand that the scheme does not propose mains drainage. A package treatment plant is proposed, this is confirmed in the Council officers report. The appellant completed the Council's Foul Drainage Assessment Form¹⁰ to confirm the detail of the scheme and the site is not in an

⁵ Essex Coast Recreational Disturbance and Mitigation Strategy Habitat Regulation Assessment Record dated 22 August 2023

⁶ HD2

⁷ 23-05250FUL Personal circumstances statement & HD1

⁸ Appeal Ref APP/P1560/W/22/3301013

⁹ HD3

¹⁰ FDA1 received by the Council on 27 April 2023

area of safeguarding or protection for the watercourse. Therefore, overall, the scheme would not be in conflict with LP Policy PPL5.

Conditions [numbers in brackets]

29. I have considered the conditions put forward and discussed at the hearing¹¹. I have considered them against the Framework, the PPG and where necessary I have amended the wording in the interests of precision. In some areas I have combined conditions, in particular for matters relating to site layout and hard and soft landscaping.
30. As the scheme accords with the development plan there is no need to consider either a temporary or personal planning permission.
31. I have not imposed suggested Condition 10 as proposed at the hearing, which relates to passage over a nearby public footpath, as it is not reasonable or enforceable.
32. Condition [1] is necessary as it clarifies the plans for the prospective development of dayrooms on the site. Since the development has been judged to be acceptable under the specific policies relating to gypsies and travellers condition [2] is necessary. In the interests of the character and appearance of the area, as set out in my reasoning, it is necessary and reasonable to impose conditions [3, 4, 5, 6, 7 & 8]. These conditions would control the site layout, activity on the site, hard and soft landscaping, access layout and boundary treatment. It would also be reasonable to restrict further structures as per condition [8].
33. Condition [6] is imposed in this format to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted in part retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of these matters before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
34. LP Policies PPL10 and SPL3 require schemes for new development of any type to consider the potential for renewable energy solutions. There are no details within the scheme. As such the Council's proposed condition on this matter is reasonable and necessary for compliance with those policies and condition [9] is imposed.

Planning Balance and Conclusion

35. The scheme would be in accordance with the development plan and cause no harm in relation to the main issues identified. There are also other material considerations in the form of personal circumstances that weigh in favour of the scheme. Therefore for the above reasons and having regard to all other matters raised the appeal is allowed.

D J Board

INSPECTOR

¹¹ Appendix 5 to the Council's Statement of Case and email from the appellant's agent dated 04 December 2023

APPEARANCES

FOR THE APPELLANT:

Dr S Ruston
H Hedges
S Hedges
W Hedges
J Hedges
M Hedges

FOR THE LOCAL PLANNING AUTHORITY:

M Pingram	Tendring District Council
M Lang	Tendring District Council
W Fuller	Tendring District Council
C Dawson	Tendring District Council

INTERESTED PARTIES:

Cllr A Coley	Bradfield Parish Council
Mr Andrew	
Mr & Mrs Strutt	
Mr Canons	

DOCUMENTS SUBMITTED AT THE HEARING

HD1 Additional personal circumstance information
HD2 Completed unilateral undertaking
HD3 Bradfield Parish Council statement to hearing
HD4 Essex, Southend on Sea and Thurrock, Gypsy, Traveller and Travelling
Showpeople Accommodation, Assessment Summary 2016-2033, January
2018

Annex A - Conditions

- 1) The development for dayrooms hereby permitted shall be carried out in accordance with the following approved plans: T1049-001 C, RA1621/02.
- 2) 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 showpeople or circus people travelling together as such.
- 3) There shall be no more than 4 pitches on the site and on each of the 4 pitches hereby approved no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) No more than one commercial vehicle per plot shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 90 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for the layout of the site, including the siting of caravans, plots, hardstanding, access and driveway layout, parking and amenity areas; tree, hedge and shrub planting and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities; (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 12 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the

time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) At the same time as the site development scheme required by condition 6 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 5 years of the proposed planting beginning at the completion of the final phase of implementation as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
- 8) 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 sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans or those approved under conditions 1 & 6 above 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.
- 9) Within 3 months of planning permission being granted a scheme for the provision and implementation (including a timetable for its provision) of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The approved scheme shall have been carried out and completed in accordance with an agreed timetable.

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