



Appeal Decision

Hearing held on 30 January 2024

Site visit made on 30 January 2024

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Appeal Ref: APP/Y1138/W/23/3328724

Bartlett's House (land to the west), Culmstock, Cullompton EX15 3HW

- 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 Mathew Tucker against the decision of Mid Devon District Council.
 - The application Ref 21/01499/FULL, dated 22 July 2021, was refused by notice dated 30 May 2023.
 - The development proposed is change of use of land from agricultural to residential use for the siting of a gypsy/traveller mobile home.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became 'National Landscapes' (NLs). I have therefore referred to NLs in my Decision and specifically referred to the Blackdown Hills AONB (BH AONB) as the Blackdown Hills National Landscape (BHNLS). However, for the avoidance of doubt, the legal designation and policy status of these areas are unchanged, and I have proceeded on this basis, continuing to refer to the AONB where relevant.
3. The address and description of development in the banner heading has been taken from the application form. Whilst both are different to that contained within the appeal form and decision notice, the parties agreed that the details correctly identify the site and the proposal. The appellant also confirmed the spelling of his first name as Mathew, and I have amended this accordingly in the banner above.
4. At the Hearing the appellant confirmed that whilst they were living on the site, the details for which he is seeking planning permission for is as set out on the submitted drawings. I have assessed the proposal on this basis.
5. Both parties confirmed that the appellant and the intended occupiers of the site meet the Planning policy for traveller sites (PPTS) definition of "gypsies and travellers", and that the PPTS is relevant policy in this case.

Main Issues

6. The main issues are:

- the effect of the proposal on the character and appearance of the area, including the setting of the BHNL,
- whether the location of the appeal site is suitable for the proposed development particularly with regard to whether safe and convenient access to local services can be provided,
- the need and provision of gypsy and traveller sites,
- the availability of alternative sites and
- the personal circumstances of the appellant and others that would occupy the site.

Reasons

Character and Appearance

7. The appeal site comprises a triangular shaped piece of land enclosed by hedgerows and mature trees. A timber stable building adjoins the highway. The site is located close to a cluster of dwellings comprising the small hamlet of Woodgate. The hamlet is characterised by a number of individually designed historic dwellings, surrounded by agricultural land. On its outskirts are a number of farms. Narrow roads lined with high hedgebanks and mature trees provide vehicular access to the area.
8. The boundary of the BHNL is on the opposite side of the road to the appeal site. I have had regard to my duty under section 85(1) of the Countryside and Rights of Way Act 2000 (as amended) (CRoW Act) which requires that in exercising or performing any functions in relation to, or so as to affect, land in an AONB must seek to further the purpose of conserving and enhancing the natural beauty of the AONB.
9. This high-quality landscape is characterised by a rolling pastoral landform with agricultural fields and farmsteads, along with historic settlements below the hill tops. Narrow winding lanes enclosed by hedgerows, tranquillity and a dark sky are also characteristic, as is the extensive network of public rights of way.
10. The BHNL is experienced in part from the road that runs along the boundary with the appeal site. Given this, along with intervisibility between the protected landscape and the site, I share the Council's view that the appeal site is within the setting of the BHNL. The National Planning Policy Framework (Framework) sets out that development within the setting of AONBs should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
11. The Blackdown Hills AONB Management Plan 2019-24 establishes that the deeply rural setting of much of the land adjoining the AONB boundary forms an essential setting for the AONB and care will be taken to maintain its quality and character. The modest size of Woodgate, the historical development within it, the narrow hedged lined roads and the agricultural fields around it make a

positive contribution to the setting of the BHNL. The previously largely undeveloped nature of the appeal site, enclosed by hedgerows contributes to the National Landscape's deeply rural setting.

12. The development of the appeal site with a large mobile home, areas of hardsurfacing, car parking and other domestic paraphernalia onto this former field would significantly erode the largely undeveloped nature of the site and the contribution it makes to the rural setting of the hamlet and the BHNL. Although there is a stable building on the site, the planning permission relating to this was for a much smaller area than that proposed in this appeal. Whilst the stable itself would be previously developed land, the remainder of the site is not, thus this matter does not weigh in the proposal's favour.
13. The appeal site is well related to residential development within Woodgate, however the single storey form of the mobile home would not reflect the appearance of nearby residential development. Whilst there are single storey structures nearby, these comprise modestly sized stable buildings and outbuildings which are characteristic of rural areas such as this. In this context, the proposal would be notably out of character with the appearance of the area.
14. The submitted drawings indicate that a section of hedgerow either side of the access would be removed to allow for the delivery of the mobile home, which would be re-planted. The appellant has however provided a letter from a static caravan retailer advising that the abnormal load could be unloaded in the road and towed by another vehicle into the property without the need to remove any hedgerow. Given the narrowness of the road and the available area for manoeuvring vehicles on the site, such delivery method seems to be a reasonable option. In the event that parts of the hedgerow need to be removed its replanting with a suitable species could be controlled by planning condition.
15. I acknowledge that the appeal site is largely contained by mature landscaping however the proposal would be visible in glimpsed views through the hedgerow from the road and greater visibility would be present from the access to the site. Views would be limited from the BHNL, but publicly accessible views would be visible from the road, which is one of the routes to and from Culmstock and a popular route for walkers visiting the Culmstock Beacon which is within the BHNL.
16. Whilst the effect on the setting of the BHNL would be localised, it cannot be said that the proposal would conserve and enhance the natural beauty of the AONB. The restocking of the hedgerow would be likely to reinforce the hedgebank lined road in this location which would be of benefit to the setting of the BHNL and the landscape and scenic beauty of the area, subject to native species being planted, but this in itself would not mitigate the harm that I have identified.
17. Given my findings I conclude that the proposal would result in harm to the character and appearance of the area, and the BHNL through harmful development within its setting, in conflict with Mid Devon Local Plan 2013 – 2033 (MDLP) Policies S1, S9, S14, DM1 and DM27 which, collectively require that the countryside and natural environment is protected, including the setting of the BH AONB. Although the Council did not refer to Policy DM7 of the MDLP within its decision notice in respect of this main issue, there would be conflict with this policy because of the unacceptable landscape impact that would

occur. The proposal taken as a whole would not conserve and enhance the natural beauty of the AONB, in conflict with the CRow Act.

Location

18. There is no dispute that the appeal site is located within the countryside for planning policy purposes. Gypsy and traveller accommodation is considered to be an appropriate rural use in the countryside under Policy S14 of the MDLP. This is consistent with the PPTS which does not seek to prevent gypsy and traveller sites from being within the countryside but rather that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. The PPTS also sets out that local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing any undue pressure on the local infrastructure.
19. The PPTS does not specify the type of settlement to which new traveller sites should be related and given the relationship of the appeal site to other dwellings in Woodgate, I find no conflict with this policy. Furthermore, the quantum of development proposed would not dominate this small hamlet, given the number of dwellings within it.
20. Moreover, the site would be sufficient to promote opportunities for healthy lifestyles for those living in the accommodation and would not be enclosed with so much hard landscaping, high walls or fences, that the impression was given that the site and its occupants were deliberately isolated from the rest of the community. These are all elements of the scheme that would accord with the approach of the PPTS.
21. Policy DM7 of the MDLP sets out criteria against which traveller sites will be assessed. Amongst other matters it requires that safe and convenient access to local facilities is provided. Woodgate has no services or facilities and is not served by public transport. Culmstock to the south has a primary school, public house, play area, village hall, playing field, shop, church and bus stops. Agreed distances to the play area and community garden are 0.5 mile, to the school 0.7 mile and the shop, 1 mile.
22. Access between the appeal site and Culmstock is along a narrow country road with limited areas for passing. The road is unlit and has no pavements, until the outskirts of Culmstock. Although covered by the national speed limit, speeds along the road are generally low due its narrowness, gradient and bends within it. The road is used by a range of vehicles with reference being made to cars, farm vehicles and milk tankers. It is also used by horses, including those from nearby racing stables, and ramblers walking to and from the nearby Culmstock Beacon. At the time of my visits at roughly 15.00 on 29 January and 16.15 on 30 January traffic and pedestrian flows along the road were low.
23. I acknowledge that the highway conditions between the appeal site and Culmstock with limited areas for pedestrians to take refuge would make walking unattractive, particularly after dark, in inclement weather and if travelling with young children. However, the village and its facilities would be accessible by cycle from the appeal site, and if driven to, the distance travelled would be short.

24. Whilst there would be a high dependency on a private car to access services and facilities further afield including supermarkets and hospitals, that is also likely to be the case for residents of both Woodgate and Culmstock. The additional movements within the highway associated with the occupation of the appeal site would be limited.
25. Whilst I was advised that there had been a collision between vehicles on the road close to Culmstock in the past, this accident was not reported and is not included in any accident data. The Council has not raised vehicle safety as a concern in this case. On the evidence before me and given the likely low number of daily vehicle movements to and from the site, I have no reason to find differently in this regard. No evidence has been presented that despite the highway conditions that accidents involving pedestrians has occurred. The proposal would be unlikely to have an unacceptable impact on highway safety and the residual cumulative impact on the road network would be highly unlikely to be severe.
26. Given the above and recognising that sustainable transport solutions will vary between urban and rural areas, I conclude that safe and convenient access to local facilities could be achieved from the appeal site. The location of the appeal site in terms of its relationship to services and facilities is suitable for the appeal proposal, in accordance with MDLP Policy DM7 and national planning policy contained within the PPTS and the Framework.

Need and Provision of Gypsy and Traveller Sites

27. The PPTS aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations with planning permission to address under provision and maintain an appropriate level of supply. It also requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
28. The research for the Council's Gypsy and Traveller Accommodation Assessment 2015 (GTAA) was undertaken in 2014. The GTAA identifies that between 2019 and 2024 that there is a need for 15 permanent residential pitches. Since 2019 six new pitches have been completed and planning permission exists for a further 15.
29. Given the above, in numerical terms it appears that the Council is able to demonstrate a 5-year supply of deliverable pitches. This does not mean that other sites that come forward should be vetoed and despite having planning permission it is clear from the submitted evidence that a number of pitches are not being provided in a timely manner. This is particularly so in respect of The Corbett site, where despite having planning permissions for 10 pitches granted in 2016 and 2019, has only delivered 1 pitch between 2019 and the time of the Hearing (1 pitch was delivered in the 2014-2019 period). Whilst the Council has indicated that 8 further pitches at The Corbett site will be delivered in 2024, past provision does not instil confidence that this will occur. Furthermore, a number of pitches have limitations on them in that they can only be occupied by family members (Diangos Rest (2 pitches), Pleasant Streams (6 pitches)), so are unlikely to be available for a single family such as that of the appellant.
30. Notwithstanding the dispute in respect of the delivery of other pitches, it is clear that if The Corbett pitches do not come forward in this calendar year as

suggested, then the Council would have a shortfall in its provision against the identified need. Whilst there are a number of strategic sites which are developable, the Council indicated that these are not being relied upon within this period 2019-2024. In any event, I have no substantive evidence before me to demonstrate that these sites would deliver pitches within this period. The proposal would contribute towards the general need for sites and the broad aim of the PPTS to increase the number of traveller sites.

31. On this basis, and noting that the Council acknowledge that the GTAA is of some vintage and is 'unlikely to reflect the full extent of current need in Mid Devon' and that there is no updated report on need since the GTAA was published, despite a needs assessment being undertaken in 2022, there is a high probability that there is likely to be a shortfall in the 5-year supply of pitches against the identified need. The fact that the supply position was not relied on when the application was determined and that the Gypsy and Traveller Liaison Officer identifies that there is little provision for Gypsy and Traveller families in the southwest adds weight to this finding.

Alternative Sites

32. The Council acknowledge that there are no public sites within its administrative area. Reference was made to the public site at Exeter having a long waiting list.
33. Of the private sites The Corbett has a number of pitches which have planning permission and appear to be available. I note that the appellant has provided a letter indicating that there is no space at The Corbett, however, this seems to relate to a particular pitch on this site, as opposed to the wider site. The appellant has however indicated that they do not wish to live on a large site preferring a private pitch for their young family which is well connected with the local community.
34. Reference is also made to a site at Willand which has 1 pitch available, however it is alleged that this site is cramped with no space to accommodate a touring caravan. Furthermore, this site would not be suitable for the appellant and his family due to family disputes.
35. My attention was also drawn to other sites including Maiden Down, Sandpitt which is alleged to have vacant pitches but this has not been verified.
36. Based on the above it appears that there are alternative sites which would be available for the appellant. I acknowledge the personal preference for a private site but am not persuaded that this is sufficient reason to demonstrate that there are no other suitable, alternative, available, affordable sites available for the appellant and his family.

Personal Circumstances

37. The appellant owns the appeal site. He previously resided on a site owned by his parents at Milverton but due to family circumstances had to leave this site. The family moved onto the appeal site in September 2023. An application has been made for a school place commencing September 2024 for the oldest child, with Culmstock being the preferred option, followed by Hemyock and Kentisbeare primary schools.

38. The appellant, his wife and 2 children would reside on the site. The evidence before me does not show that there is a specific need for the children to be on this particular site in order to meet their educational needs. Nor has it been shown that there is any need for the family to occupy this site arising from any health issues, for either the adults or the children. In reaching this view I am mindful of the stress and anxiety that the planning process has caused the adult members of the family.
39. I accept, however, the importance of the children having a settled home and attending a nearby school and in this respect the best interests of the children lie in remaining at the appeal site, in accordance with the wishes of their parents. Quite clearly, a roadside existence, which I cannot rule out as a possibility, would be contrary to their best interests. Consequently, while not decisive on its own, this is an important consideration which weighs in favour of the appellant in the overall balance.

Other Matters

40. I have had regard to the appeal decisions provided by the appellant. In terms of Brookside Stables¹, Land adjacent the old Railway Cutting², and Land at Rookery Farm³ I have found similarly to the Inspectors in terms of the site's location within the countryside and the relationship to nearby services and facilities. The same is true for the appeals relating to The Workshop⁴ and Aylesbury Gardens⁵, but in these cases the site was not within the setting of a National Landscape and therefore not comparable to the proposal before me.
41. The Inspector in determining the case at Land to the rear of The Paddock⁶ found that given the context of silos, and gypsy pitches that the proposal was not harmful to the character or appearance of the area. It appears that the circumstances in this case are not directly comparable to that before me and this is so in respect of the orchard location of the development that granted planning permission at Coles Furlong⁷. The context of the development at The Caravan Site, Highfield Lane⁸ is also not comparable to the appeal site and its surroundings. Given the above this limits the weight that I can give to other appeal decisions in my overall assessment.
42. The post-hearing advice note in respect of the Mid Devon Local Plan Review 2013-2033 in respect of provision for Gypsies and Travellers appears to have been addressed in so far as it relates to Policy DM7.
43. Furthermore, the site would be sufficient to promote opportunities for healthy lifestyles for those living in the accommodation, and the site would not be enclosed with so much hard landscaping, high walls or fences, that the impression was given that the site and its occupants were deliberately isolated from the rest of the community. These are all elements of the scheme that would accord with the approach of the PPTS.

¹ Appeal Decision APP/G1630/W/17/3192162

² Appeal Decisions APP/P1615/C/18/3215553 & APP/P1615/W/18/3215543

³ Appeal Decision APP/D0840/W/21/3282303

⁴ Appeal Decisions: APP/G2713/C/13/2198583, 2198584, 2199511, 2198585, 2198586 & 2199509

⁵ Appeal Decision APP/G2435/W/17/3174630

⁶ Appeal Decision APP/Y3940/W/19/3225487

⁷ Appeal Decision APP/R3325/A/07/2051240

⁸ Appeal Decision APP/R3705/W/18/3199149

44. It is submitted that the most important policies are out of date and therefore the presumption given by Framework paragraph 11 d) is applicable in this case. This is not so because of the identified harm that would be caused to the BH AONB, in conflict with policies in the Framework that protect areas or assets of particular importance. Paragraph 11 d) i. and footnote 7 are relevant in this regard.
45. I acknowledge that in some regards the proposal complies with the approach to gypsy and traveller sites set out in the PPTS, but these matters would be expected of any well designed and located development. I find similarly in respect of the compliance with certain policies in the development plan. These are neutral matters which neither weigh against or for the proposal.
46. It is alleged that there are a number of listed buildings nearby to the appeal site. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
47. Woodgate Farmhouse is a grade II listed building located to the north of the appeal site. Walders Court, by association to Woodgate Farmhouse is curtilage listed. These former farm buildings are listed because of their historic and architectural significance. There is no intervisibility between these buildings and the appeal site and the surroundings within which these designated heritage assets are experienced does not include the appeal site. Accordingly, the proposal would preserve the setting of these listed buildings.
48. Culmstock Beacon is Grade II listed whose significance is derived from its former use as a medieval signal to warn of invasion and its age. It is set high above Woodgate. Whilst Woodgate is within the setting of this designated heritage asset there is no intervisibility between it and the appeal site, therefore the proposal would have a neutral effect on the setting of this designated heritage asset.
49. Whilst Bartletts is a historic property it was confirmed that it is neither a designated heritage asset or a non-designated heritage asset.

Planning Balance

50. At the start of the planning balance I have borne in mind the requirements of the Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appeal is made for a gypsy site, they are persons who share a protected characteristic for the purposes of the PSED. Although it does not automatically follow that the appeal should succeed, the equality implications add weight to the proposal. I have also not placed any single planning aspect above the best interest of a child.
51. Paragraph 180 of the Framework sets out that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other matters, protecting and enhancing valued landscapes. The development of the site as proposed would result in harm to the intrinsic

character and appearance of this rural area and would harm the natural beauty of the BHNL through harmful development in its setting, in conflict with the development plan and national planning policy. The effect would be localised, but I attach great weight to this harm to the AONB and substantial weight to the conflict with the development plan. As set out above additional landscaping would not mitigate the harm identified.

52. The countryside location of the appeal site and its relationship to services and facilities would comply with the locational characteristics of the development plan and national planning policy relating to Gypsy and Traveller sites.
53. The provision of an additional pitch for gypsy and travellers weighs in favour of the proposal, particularly given the age of the GTAA and the lack of an updated needs assessment as required by the PPTS, a matter to which I attach considerable weight. However, the needs of the appellant and his family could be met elsewhere within Mid Devon, from where healthcare facilities and education for the children could be accessed and a settled base provided.
54. Taking all the above into account I find that the benefits of the scheme do not outweigh the harm that would be caused to the character and appearance of the area and the BHNL, through unsensitive development within its setting, in conflict with the development plan and national planning policy. I have attached substantial weight to this harm.
55. I have considered whether the grant of a personal or temporary planning permission would be justified. A personal permission would not however limit or reduce the harm to the character or appearance of the area. Whilst a temporary permission would limit the length of time of harm being caused to the character and appearance of the area, it would not prevent harm occurring during the temporary period. Accordingly, a personal or temporary planning permission would not be warranted in this case.
56. The refusal of planning permission is likely to lead to the appellant and his family having to leave the appeal site. This could lead to a life on the road, if alternative pitches were not available or taken up. This would be an interference with their rights to a family life and to establish a home to facilitate a gypsy way of life but given the clear public interest in protecting the landscape and scenic beauty of the BHNL and ensuring that new development meets the provisions of the development plan, I am satisfied that the dismissal of the appeal is justified and proportionate.

Conclusion

57. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

RC Kirby

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr M Tucker	Appellant
Mrs C Tucker	Appellant's Wife
Ms H Cameron	H C Planning

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Millar	Mid Devon District Council
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INTERESTED PARTIES:

Cllr C Bass	Culmstock Parish Council
Cllr S Clist	District Councillor Mid Devon District Council
Mrs J Dare	representing local residents
Ms R Ellis	local resident
Mr N Forsyth	representing local residents
Mrs S Forsyth	local resident
Ms C Lamyman	local resident
Mr S Steer	local resident

DOCUMENTS SUBMITTED AT THE HEARING:

DOC1	Letter from appellant's mother
DOC2	E-mail regarding application for a school place
DOC3	Foul Drainage Observations on the appeal site
DOC4	Site location plan for stable building