
Appeal Decision

Site visit made on 23 October 2024

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeal Ref: APP/R0660/W/24/3343931

Land Adjacent Long Lane, Long Lane, Wettenhall CW7 4HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Michael Stokes against the decision of Cheshire East Council.
 - The application Ref is 22/4413N.
 - The development proposed is material change of use of land from stable block, menage and use of land for equestrian use to a mixed use of stables, menage, use of land as equestrian and the siting of caravans for residential purposes and the erection of two dayrooms together with associated hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for material change of use of land from stable block, menage and use of land for equestrian use to a mixed use of stables, menage, use of land as equestrian and the siting of caravans for residential purposes and the erection of two dayrooms together with associated hardstanding at Land Adjacent Long Lane, Wettenhall CW7 4HH in accordance with the terms of the application, Ref 22/4413N, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Michael Stokes against Cheshire East Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal was started with a view to being determined by a Hearing. However, following late evidence received in the appeal, which included an agreed statement of common ground. The matters of agreement between the main parties were that the development causes no harm in terms of highway safety and the Council would not contest reason for refusal No.2 in the appeal. The Council also set out that they did not intend to argue the reason for refusal no.3 relating to personal circumstances. This necessitated a change to the written appeal procedure, as being the most appropriate in this case and I have therefore dealt with the appeal on this basis.
4. As a result, in the interests of procedural fairness, and without prejudice to all parties. They were invited to make additional written submissions, and the main parties submitted final comments. I have taken these into account, insofar they are relevant to any outstanding matters.
5. In terms of the Council's reason for refusal No.2 of the planning application, this related to highway safety and that insufficient information had been

submitted to demonstrate otherwise. As part of the appeal evidence the appellant in support of their proposal submitted a highways statement¹ (HS). The Council are now satisfied that the HS and highways reason for refusal has been addressed. Nevertheless, I will return to the HS in other matters and requirements for suitably worded conditions.

6. In addition, the Council's reason for refusal No.3 related to insufficient information being submitted regarding the status of the appellants and the cultural need for appropriate accommodation at the site. The appellant has provided additional evidence as part of the appeal². The Council have set out they do not contest this evidence and as such reason for refusal No.3 falls away.
7. The National Planning Policy Framework (the Framework) and the Planning Policy for Traveller Sites (PPTS) was updated on 12 December 2024. The main parties have provided additional representations on any implications of the Framework 2024 and the PPTS 2024 on their cases. I have had regard to these. There is no evidence to suggest that the main parties would disagree that the intended occupiers of the site would not meet the definition of a Gypsy and Traveller as contained within annex 1 of the PPTS 2024.

Main Issues

8. Considering the above, the main issues are therefore (i) whether the site is within a suitable location, having regard to accessibility, sustainability, the provisions of development plan policy and the PPTS; (ii) whether the proposal would affect the character and appearance of the area.

Reasons

Location / Accessibility / Sustainability

9. The PPTS at Policy H, paragraph 26 states 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. It requires local planning authorities to ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing undue pressure on the local infrastructure.
10. Policy PG6 of the Cheshire East Local Plan Strategy 2017, (CELPS) sets out that the open countryside is defined as the area outside of any settlement with a defined settlement boundary and restricts development in the open countryside to specific categories and exceptions, or for other uses appropriate to a rural area will be permitted. Policy SC7 of the CELPS relates to gypsy and traveller sites, the policy amongst other matters, sets out in criterion that consideration will be given to the proximity of the site to local services and facilities, access to public transport and safe pedestrian, cycle and vehicular access onto the site.
11. The appeal site lies outside of any defined settlement boundary, within the open countryside for the purposes of development plan policies. However, it is not 'open' or 'remote' in the sense of being isolated in locational terms, taking into consideration its surrounding characteristics. This appeal site is located

¹ The Hurlstone Partnership, ref JPH/240401/Final, dated May 2004

² A14, A15 Witness Statements (updated & signed)

- within surrounding development consisting of residential buildings with external domestic paraphernalia, a menage, farmsteads with agricultural buildings and a holiday/caravan park located nearby on Long Lane.
12. The appeal site itself is some 900 metres away from the hamlet of Wettenhall and is located some 3.5km to the A51 between Alpraham and Calverley. The smaller village of Alpraham which has a site for a substantive residential development also features some day-to-day services, albeit limited. Eaton is some 5.3km, which again has services and a school, whilst being some 6-8km of the larger areas of Winsford and Tarporley which include larger services and facilities such as GP surgeries, schools, shops, and supermarkets.
 13. Nonetheless, there is an absence of formal footways and the immediate area devoid of street lighting along both Long Lane and Eaton Road. The nearest bus route is a considerable distance to access by foot along the A51 which runs between Chester and Crew. I appreciate there are nearby public rights of way which can reach local villages, but these would be difficult by walking or cycling, given the road conditions in the area and that this would be unrealistic throughout the year, particularly in the winter months.
 14. Therefore, opportunities for using sustainable modes of transport are thus restricted. I consider that most journeys to and from the appeal site for either employment or to reach essential services would be made by private motor vehicles, whether to the nearby villages, or to the larger areas of Winsford and Tarporley. However, these journeys to reach facilities and services within the nearby villages would not be unduly long and Eaton offers a range of facilities including shops and a school.
 15. Nevertheless, I am mindful of paragraph 110 of the Framework and the flexibility it advocates. It sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision making. Furthermore, it is not uncommon for rural sites to not be close to existing employment, services or facilities and have a reliability on cars/vehicles.
 16. Although the Council refer to the SD2 checklist, the Framework and/or the PPTS does not set distances or means of transport. In any event, the provision of a settled base for 2 gypsy households would facilitate access to local facilities, services and schooling, and reduce the likely extent of long-distance travelling, which would be in line with paragraph 13 of the PPTS and the considerations for sustainability. Furthermore, given the site has an extant equestrian use, it is likely that vehicle movements and journeys to / from the site would be reduced and enhance welfare related to that use.
 17. I consider that the appeal site is therefore not in a location away from settlements where traveller sites should be very strictly limited in accordance with the PPTS, and it would enable reasonable and satisfactory access to local schools, essential services, and other amenities. On this basis, I conclude that the appeal site is within a suitable location, having regard to accessibility and sustainability for gypsy and traveller accommodation. It would accord with Policy PG6, SD2 and SC7 of the CELPS, Policy HOU5 and HOU7 of the Cheshire East Site Allocations DPD 2022 (SADPD), and the PPTS as I have set out above.

Character and appearance

18. The appeal site consists of a grassed field with an existing stable block positioned on an area of hardstanding and is accessed from Eaton Road. The larger site is bounded by vast amounts of vegetation which leads to wider agricultural fields. It sits within an area defined as open countryside, nonetheless, the surrounding area is characterised by various land uses which includes residential, equestrian, agricultural, commercial, and recreational with clusters of relevant building use types including the New Farm holiday park.
19. The proposal would entail 2 pitches to the north of the site, which would include 1 mobile home and 1 touring caravan on each pitch and a utility/dayroom on each of the pitches. The site has extant planning permission³ relating to a change of use of land to equestrian, stable block and menage. As I saw the existing stable block is of a substantial construction and sited on a modest area of existing hardstanding. Hardstanding areas are also apparent at the point of the access and partially along the trackway, albeit the access appeared currently unmaintained.
20. As I saw, due to the site being encompassed by large hedgerows and trees wider public views are limited which prevented views of the site from along Eaton Road itself without entering along through the existing gate at the point of access. I accept that there may be some fleeting views from Eaton Road and Little Bank Farm to the east when vegetation would not be as dense, but these would be limited.
21. The proposal including the day rooms/amenity buildings would be seen in the context of existing buildings at Little Barn Farm and the backdrop from Brook Barns, and the buildings on Eaton Road further north. In addition, proposed materials would be consistent with the rural character and appearance. I would disagree with the Council's approach that these are also substantially more than required as a day room.
22. The Council consider that the lack of mitigation for landscaping adds to the visual harm of the proposal. However, the plans show that there is additional landscaping, including a native hedge and tree planting to the eastern boundary and the residential area of the site would be enclosed to a degree by fencing. This could be further supplemented with finer details agreed, including hardstanding materials through suitably worded conditions and any additional landscaping is likely to reduce the visual aspects of the site and positively enhance the environment as set out in paragraph 27 of the PPTS. Although, there would be some domestication of the site due to the residential aspects, this would be limited and contained to the northern part of the field, and caravans are not uncommon in the area and are widely associated in rural areas in the countryside. The site would also be not unduly large and relative in scale to the pitches proposed.
23. For the above reasons, I conclude that the proposal would not cause adverse harm to the character and appearance of the area. It would accord with Policy PG6, SC7 of the CELPS, Policy HOU5 of the SADPD, and the PPTS, as set out.

³ 18/2151N, 22/0345N

Other considerations

24. The PPTS requires that criteria should be set to guide land supply allocations where there is an identified need. Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. These should be fair and facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community.
25. The identified need requirement is set out within Policy HOU5 of the SADPD and was based on the GTAA⁴ from 2018 and the previous definition of gypsies and travellers from the 2015 PPTS. The Council have set out that because the GTAA and SADPD were prepared and adopted in line with superseded definitions of gypsy and travellers set out in the previous versions of the PPTS, it is unclear what the need is for permanent pitches over the plan period, taking account of the revised definition.
26. It is acknowledged by the main parties that the Council are unable to demonstrate a five-year supply of gypsy and traveller pitches, at this present time. Planning law requires that applications must be determined in accordance with the development plan and with regard to any material considerations. The PPTS advises where the local planning authority cannot demonstrate a five-year supply the provisions in paragraph 11d) of the Framework should apply and local planning authorities should consider how planning objections could be overcome using planning conditions or obligations.
27. The appellant has also provided evidence of the personal circumstances of future occupiers of the site to support their appeal. Therefore, I consider this would satisfy the criterion in Policy HOU5 of the SADPD, which clearly states that such proposals would be acceptable through the application of Criterion 3(i) of Policy PG6 OR where it is evidenced, they have a genuine need for culturally appropriate accommodation, and cannot meet their accommodation needs by occupying an existing pitch or on an allocated site, and in light of the above it would meet criterion 4. Furthermore, Policy PG6, does not restrict other uses appropriate to a rural area.
28. Nevertheless, I have found there is development plan policy compliance in this case. It is therefore unnecessary for me to consider these matters further including the personal circumstances.

Other Matters

Highway Safety

29. Concerning highway safety, the HS concluded that the existing gateway is sufficient to accommodate two-way vehicle traffic, safely accommodate cumulative traffic flows, has excellent forward visibility and there are existing elements of hardstanding along the proposed access trackway, albeit unmaintained and now heavily overgrown with vegetation.
30. The Strategic Highways Officer⁵ has confirmed the access width which after clearing of overgrown vegetation provides sufficient width for two vehicles to

⁴ Cheshire East Gypsy, Traveller and Travelling Showpeople Accommodation Assessment, August 2018

⁵ Email dated 5 July 2024

pass and that it is very wide at the point of access to the public highway which would allow larger vehicles to pass each other. They consider the access is adequate and the highways refusal can be withdrawn. Moreover, it would appear from the evidence that there are existing access arrangements already in place pertaining to vehicles using the site access from the existing planning permission at the site.

31. Given that the Council have confirmed that the Strategic Highways Officer considers the HS to be acceptable and the site access is adequate, subject to the removal of overgrown vegetation, and there is no substantive evidence to support that the junction is unsafe. I consider a suitably worded condition could be imposed to ensure that this would be carried out prior to any development taking place. Therefore, I have no substantive evidence to the contrary that the proposal would cause any harm to highway safety or conflict with CELPS Policies SC7 or IN5.

Other planning issues

32. Several concerns have been raised by interested persons and the Parish Council. In relation to fear of crime, anti-social behaviour or hear say, there is no substantive cogent evidential basis to support these concerns, and unjustified fear motivated by prejudice cannot be a material consideration in such circumstances.
33. Regarding the personal circumstances of the appellant which have been raised, in this case the appellant is not the intended occupier of the site, and the Council do not dispute the status of the intended occupiers. Thus, it fails for me to consider the appellant's own personal circumstances. Moreover, the PPTS at paragraph 25e) requires that determination of applications for sites is from any travellers and not just those with local connections. Nevertheless, the appeal site would accommodate 2 additional households and there is no evidence to suggest that this would have any unacceptable impacts on the provision of local services, businesses, and infrastructure. The pitches would not dominate the nearest settled community, and there is no reason why intended occupants would fail to integrate with the local community.
34. In respect of biodiversity, flooding, waste, contamination there is no evidence that would lead me to take a different view than the Council. The Council's ecologist raised no objections provided a suitable condition is imposed relating to increasing biodiversity and there were no requirements for any ecological assessment to be undertaken. I also have no evidence relating to flooding at the site, and matters pertaining to surface water and foul water, lighting, contamination could be dealt with by the imposition of conditions. The main parties acknowledge that a UU pipeline is located underground at the appeal site, the plan show the location and 10m easement area, and a suitably worded condition would ensure that the water main that is within the site would not be damaged and protected during any construction/site works.
35. Other appeal decisions and caselaw have been presented and cited by the parties, I have had regard to them insofar as necessary, whilst noting the facts and matters of this case. I do not have the precise circumstances of individual developments. Nonetheless, I have no reason to disagree with the approach of the Inspectors conclusions in appeal APP/R0660/W/23/3334296.

36. In coming to my decision, I have had regard to the rights of the appellant / intended occupiers of the site under Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998 (HRA). Article 8 affords the right to respect for private and family life and home, including the traditions and culture associated with the ethnical identity of the gypsy and traveller way of life and the best interests of the children. It is a qualified right, and interference may be justified where that is lawful and in the public interest. The concept of proportionality is crucial.
37. I have found that the proposal would not cause harm and comply with the development plan taken as a whole, it is therefore not necessary for me to consider a personal condition, or to impose a condition to time-limit the development, as this could lead to an interference under Article 8 of the HRA.
38. Furthermore, 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 protected characteristics and those who do not share it. In granting permission for the development it would allow the opportunity for intended occupants to foster good relationships with the local community, therefore it advances opportunity which is in line with the PSED.

Conditions

39. I have considered the conditions which were originally suggested by the Council and the appellant, including any pre-commencement conditions. I further consulted on conditions and have considered those representations received. In considering the Framework and Planning Practice Guidance (PPG), I have undertaken some minor editing and rationalisation.
40. A condition specifying the time limit and approved plans is necessary as this provides certainty. It is necessary and fundamental to the acceptability of the proposal to impose a condition to ensure the development is occupied by people that meet the PPTS 2024 definition. To protect the living conditions of future occupants and prevent harm to the character and visual qualities of the area, I have imposed a condition that limits the number of pitches and caravans, and for no commercial activities/storage or vehicles over 3.5 tons, save for any transportation of ponies and horses which is reasonable given the equestrian use of the land. I have not imposed the appellants suggestion to include commercial activities pertaining to the extant permissions as this would conflict with those permissions and the conditions.
41. In order to safeguard the character and appearance of the area, positively enhance the environment it is necessary and reasonable to impose conditions relating the external materials of the dayrooms, details of external lighting, and removal of permitted developments relating solely to additional fences, gates and walls other than those authorised by this permission. I have also imposed a condition relating to hard and soft landscaping, boundary treatments and planting species to be agreed, including an implementation programme. A condition is necessary regarding biodiversity to ensure the development is acceptable in line with the aims of Policy SE3, and to ensure that the development will enhance and provide suitable provision for protected species given the sites rural location and specific site surroundings.

42. A condition relating to ground contamination, including soil importation and any remediation is necessary to avoid pollution and risk to human health given that the area has a history of agricultural/equestrian use, and the proposed use would be more sensitive. In the interests of highway safety, a condition is necessary for the access/driveway clearance works are undertaken in accordance with the HS, and in the interests of public health and to ensure protection of the public water supply I have imposed a condition relating to the water main and its protection, which is reasonable and justified including by the statutory consultation response and ensures protection during development of the site.

Conclusion

43. For the reasons given above the appeal should be allowed.

K A Taylor

INSPECTOR

Appeal Ref: APP/R0660/W/24/3343931
Land Adjacent Long Lane, Long Lane, Wettenhall CW7 4HH

Schedule of conditions attached to planning permission.

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 21_1148A_003 Rev G, 21_1148A_005, and 21_1148A_001.
- 3) 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, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 4) There shall be no more than two pitches on the site, with no more than two caravans on each pitch, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be stationed at any time, of which only one caravan shall be a static caravan.
- 5) No development shall take place above slab level until details of the materials to be used in the construction of external surfaces of the dayrooms hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) The dayrooms hereby approved, shall not at any time be used as overnight accommodation.
- 7) No commercial activities shall take place on the land, including the storage of materials.
- 8) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site, save for one vehicle to be used for the transportation of ponies or horses.
- 9) Prior to the first occupation of the development, a scheme for the landscaping of the site shall be, submitted to and approved in writing by the local planning authority. The landscaping scheme shall include details of hard landscaping, boundary treatments, planting plans, written specifications (including cultivation and other operations associated with tree, hedge, or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities, and an implementation programme. The landscaping and any boundary treatments shall be planted/installed/erected in accordance with the approved implementation programme. Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become seriously damaged or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of similar size and species.

- 10) No development shall take place until a strategy for the incorporation of features to enhance biodiversity value of the proposed development has been submitted to and approved in writing by the local planning authority. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrow and roosting bats, gaps in garden fences to facilitate the movement of hedgehogs, brash/deadwood piles, a wildlife pond and native species planting. The development shall be carried out in accordance with the approved details and thereafter maintained.
- 11) Prior to the first occupation of the site, details of the external lighting to be installed within the site shall be submitted to and approved in writing by the local planning authority. The lighting shall be carried out and erected in accordance with the approved details and maintained thereafter.
- 12) Prior to the first occupation of the site, the access/driveway shall be scraped and cleared of vegetation in accordance with the recommendations of The Hurlstone Partnership – Transportation Planning, Highways Design and Environmental Assessment dated May 2024. The access/driveway shall be maintained thereafter.
- 13) No development shall take place until a drainage scheme for foul and surface water has been carried out in accordance with details which shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 14) No development shall commence, until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. Should this approved risk assessment indicate that remediation is necessary, a Remediation Strategy shall be submitted to and approved in writing by the local planning authority. Prior to first occupation/use of the development, a Verification Report prepared in accordance with the approved Remediation Strategy that covers that part of the development to be occupied or used shall be submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until: i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 15) No development shall commence until a Desk Study to assess the suitability of any subsoil and/or topsoil material to be imported onto the land has been submitted to and approved in writing by the local planning authority. The Desk Study shall set out details of the sampling regime and analysis carried out to ensure that the proposed material shall not pose a risk to human health as defined under Part IIA of the

Environmental Protection Act 1990. No subsoil and/or topsoil material shall be imported unless it has been so approved by the local planning authority. The developer shall subsequently test samples of any imported subsoil and/or topsoil material on the land and submit results to the local planning authority as required to verify that the imported soil is free from contamination in accordance with the approved scheme.

- 16) No development shall commence, including any site clearance until the details of the means of ensuring the water main that is laid within the site boundary is protected from damage as a result of the development hereby approved has been submitted to and approved in writing by the local planning authority. The details shall outline the potential impacts on the water main from any construction activities and the impacts post completion of the development on the water main infrastructure that crosses the site and identify mitigation measures to protect and prevent any damage to the water main both during and post completion of the development. The development shall be carried out in accordance with the approved details, including any mitigation measures and maintained thereafter.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected other than those expressly authorised by this permission shall be constructed.

- END OF SCHEDULE -