



Appeal Decision

Site visit made on 28 January 2025

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/P1615/W/24/3338671

1 The Stables, Southend Lane, Newent GL18 1JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Alice Jones against the decision of Forest of Dean District Council.
 - The application Ref is P0732/23/FUL.
 - The application sought planning permission for the Variation of Condition 02 (Approved Plans) of planning permission P0415/19/FUL to add dormers in roof to front and side aspects without complying with a condition attached to planning permission Ref P0523/20/FUL, dated 6 July 2020.
 - The condition in dispute is No 2 which states that:
 - 2 - The occupation of the bungalow hereby permitted shall be limited to a person or persons, of Gypsy/Traveller heritage and their dependants, solely or mainly employed as the site manager for the Gypsy/Traveller site permitted by Inspector Freeman through appeal reference APP/P1615/A/12/2175502 on the 13th June 2013, and their dependants.
 - The reason given for the condition is:
 - To ensure that the special justification for departing from the Development Plan is adhered to and the Gypsy and Traveller site is safeguarded from development that could adversely impact on meeting the provision within the District in accordance with paragraph 79 of the National Planning Policy Framework and Policy CSP.6 of the Core Strategy.
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Decision

1. The appeal is allowed and planning permission is granted for the Variation of Condition 02 (Approved Plans) of planning permission P0415/19/FUL to add dormers in roof to front and side aspects at 1 The Stables, Southend Lane, Newent GL18 1JD, in accordance with the application Ref P0732/23/FUL, without compliance with condition number 2 previously imposed on planning permission Ref P0523/20/FUL dated 6 July 2020 and subject to the conditions set out in the attached Schedule.

Main Issue

2. The main issue is the acceptability of the removal of the condition having regard to the location of the appeal site, the bricks-and-mortar nature of the dwelling, and the operation of the adjacent gypsy traveller site.

Reasons

3. The proposal seeks to remove, in its entirety, a condition that requires the occupiers of the dwelling to be of gypsy traveller heritage, as well as solely or mainly employed as the site manager of the adjacent gypsy traveller site.
4. The Council have referred to policies CSP.4 and CSP.16 of the Forest of Dean District Council – Core Strategy (adopted February 2012) (the Core Strategy) and

highlights that the site is located outside of any settlement boundary. These policies seek to direct development, including the provision of housing, to take place within settlement boundaries. The proposal would result in an unrestricted residential unit in the countryside and thus there would be conflict with these policies.

5. However, the Council highlight that it currently cannot demonstrate a five-year supply of deliverable housing sites and as such the presumption in favour of sustainable development, as envisaged by paragraph 11 of the National Planning Policy Framework (the Framework) is engaged. This requires that planning permission be granted unless:
 - i) the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places, and providing affordable homes, individually or in combination.
6. The Council indicate that in respect of i) above, the site does not fall into any of the areas or assets that are relevant, and I have no reason to disagree. Thus, the consideration is whether or not any adverse impacts of removing the condition would significantly and demonstrably outweigh the benefits.
7. It is contended that the proposal would conflict with policy CSP.6, in that the policy establishes a shortfall in the provision of gypsy traveller pitches across the District. However, while there is reference in the reasoned justification to the policy to the findings of a Gypsy and Traveller Area Assessment (GTAA), there is no reference in the policy to a specific need. Rather the policy sets out that sites will be provided to meet identified needs, that allocations will be made to identify sites, as well as listing criteria against which new sites will be assessed against. It does not include a requirement to safeguard existing sites.
8. I am conscious that the identified need set out in the most recent GTAA shows that there is a need for pitches within the District. Nonetheless, the appeal relates to a bricks and mortar dwelling, not a traditional pitch. In this respect, the proposal to remove the occupancy restriction of the dwelling would not, in any event, result in the loss of a pitch. I am also conscious that the Government's planning policy for traveller sites (the PPTS) sets out that the overarching aim of the Government is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community¹.
9. It is well established that many gypsy travellers have an aversion to living in bricks and mortar accommodation, which the Council accepts, and while some may be willing to tolerate such living arrangements, it is generally not acceptable, or reasonable in my view, to restrict such a dwelling to be occupied only by gypsy

¹ Paragraph 3

travellers. This would be contrary to facilitating the traditional and nomadic way of life of travellers.

10. The condition also requires that the occupants be employed (or mainly employed) as a site manager of the adjacent gypsy traveller site. While this may have been some justification at the time that the condition was imposed, the appellant sets out that the site is now split between at least four separate owners. As a consequence, the owner of the dwelling on the appeal site only has control over one of the thirteen plots within the wider site. There is therefore little influence that the occupiers are able to exert in terms of how the site is managed.
11. The Council has raised issues over the maintenance of the access that serves the site, as well as the boundaries and single utility/dayroom. The appellant highlights that the access is a private way and maintenance is split between all of the pitch owners, that the individual boundaries within each pitch are the responsibility of the respective owners and that the only dayroom, located on pitch 3, is maintained by the owners of that pitch. Therefore, there appears to be no ability of the occupier of the dwelling to functionally manage the site. Furthermore, the condition requires the occupier to be employed in this function and there is no suggestion before me that any kind of payment is received, or could realistically be supported, in regard to any management duty. As such, the requirement in this regard is, in my view, not be reasonable.
12. It has also been raised that to remove the condition would result in the dwelling becoming functionally divorced from the existing gypsy traveller site. However, no harm in this respect has been identified. I observed at the time of my site visit that there is no physical linkage between the dwelling and the site, with all means of pedestrian access between the two having been closed up. Furthermore, in light of the differing ownership and lack of control over the majority of the site by the owner of the dwelling, there is little if any functional linkage between the two. I therefore consider that there would be little, if any, harm in respect of the severance of the dwelling from the adjacent site by the removal of the condition.
13. In regard to the location of the dwelling in the countryside, I observed that the position was not one in undeveloped countryside. Rather, there was a significant amount of development in the vicinity of the appeal site, and this included dwellings, within the context of which the appeal dwelling is viewed. There would be no visual intrusion into the countryside and no harm in this respect.
14. In assessing the presumption in favour of sustainable development, I find that the adverse impact of the proposal would be conflict with policy that I have identified above. However, I give this conflict only limited weight. The benefits would be the removal of a restriction on the property that I have found to be unreasonable as it does not respect the cultural traditions of the individuals that are required to occupy it. It would also remove a restriction that no longer serves any reasonable purpose, in limiting occupation to a person managing a now predominantly independent gypsy traveller site.
15. Given that the existing unit of accommodation is a bricks and mortar dwelling, and not a traditional gypsy traveller pitch, albeit one that is currently occupied by a gypsy traveller, I find that there would be no unjustified loss of gypsy traveller accommodation, and it would not result in the loss of a gypsy traveller pitch. This matter is however a neutral factor in consideration of the appeal. The Council have

also raised no objection in terms of the development being at a sustainable location, and this is therefore also a neutral consideration.

16. In light of the above, I find that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits and thus the balance falls in favour of allowing the appeal and removing the condition in its entirety.

Other Matters

17. The Council state that the previous permission was granted under special circumstances and would not normally have been allowed. While that may be the case, I have assessed the proposal in light of the circumstances that exist at this time. As such, the previous justification for the development and restriction has little bearing on my consideration.

Conditions

18. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

19. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

Martin Allen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans.
 - Proposed details RJ-NB-DORMER-001 received by the Council 4 May 2020
 - Previously Approved Drawings RJ-TS-NEW-001 received by the Council 4 May 2020
- 2) Notwithstanding the provisions of Part 1 of the Second Schedule to the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development as specified in Part 1 (Classes A, B, C, D, E and F), other than such development or operations indicated on the plans hereby approved, shall be carried out.
- 3) Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no further windows/dormer windows or roof lights other than those expressly authorised by this permission shall be constructed within the bungalow hereby approved.
- 4) The development hereby approved shall be carried out in accordance with the approved Precautionary Method Statement for Great Crested Newt, prepared by Acer Ecology, dated 06/06/2019.
- 5) The development hereby approved shall be carried out fully in accordance with the approved Arboricultural Impact Assessment, prepared by AllArboriculture dated 11th June 2019 and unnumbered tree protection plan received on the 21.06.2019.
- 6) The hedgerow/tree boundary along Southend Lane shall be safeguarded from development through the erection of tree and root protection barrier, in accordance approved drawing no RJ-TS-NEW-002C and the specification approved through the Arboricultural Impact Assessment, prepared by AllArboriculture dated 11th June 2019 (page 20) prior to any other development commencing at the site. Thereafter the hedgerow/tree boundary to Southend Lane shall be maintained for perpetuity.
- 7) The foul water drainage scheme approved under details submitted pursuant to P0110/19/DISCON shall be carried out in accordance with the approved details only and thereafter maintained in perpetuity.
- 8) The surface water drainage scheme approved under details submitted pursuant to P0110/19/DISCON shall be carried out in accordance with the approved details only and thereafter maintained in perpetuity.
- 9) The bungalow hereby permitted shall not be occupied until the access, parking spaces, and turning facilities shown on the approved drawings (drawing no RJ-TS-NEW-002C) have been constructed, laid out and

provided ready for use. The land so provided shall not thereafter be used for any purpose other than for the parking, turning of vehicles and cycles.

- 10) The bungalow hereby permitted shall not be occupied until Gypsy/Traveller Plot 1a as approved through drawing no RJ-TS-NEW-002C has been laid out and is ready for occupation.
- 11) The proposed roofing and external facing materials, including colourations, shall be carried out in accordance with drawing "RJ-NB-DORMER-001" received on 4th May 2020.
- 12) The biodiversity enhancement scheme (bird and bat box provisions) approved under details submitted pursuant to P0110/19/DISCON shall be carried out in accordance with the approved details only and thereafter maintained in perpetuity.

End of Schedule